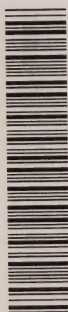


# Draft Amendments to the Income Tax Act and Related Statutes


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The Honourable Michael H. Wilson  
Minister of Finance

July 1990



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The Honourable Michael H. Wilson  
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Department of Finance  
Canada

Ministère des Finances  
Canada

# Draft Amendments to the Income Tax Act and Related Statutes

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DRAFT LEGISLATION  
TO AMEND THE INCOME TAX ACT  
AND RELATED STATUTES

PART I  
INCOME TAX ACT

1. (1) All that portion of section 3 of the *Income Tax Act* following paragraph (d) thereof is repealed and the following substituted therefor:

"and the taxpayer's income for the year for the purposes of this Part is,

(e) where an amount is determined under paragraph (d) for the year in respect of the taxpayer, the amount so determined, and

(f) in any other case, equal to zero."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

2. (1) Subsection 4(4) of the said Act is repealed and the following substituted therefor:

Limitation respecting inclusions and deductions.

"(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, either directly or indirectly, in computing the income of a taxpayer for a taxation year or the taxpayer's income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been directly or indirectly included or deducted, as the case may be, in computing such income or loss for the year or any preceding taxation year under, in accordance with or by reason of any other provision of this Part."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

3. (1) Paragraph 6(1)(a) of the said Act is amended by striking out the word "or" at the end of subparagraph (iii) thereof, by adding the word "or" at the end of subparagraph (iv) thereof and by adding thereto the following subparagraph:

"(v) under a salary deferral arrangement, except to the extent that the benefit is included under this paragraph by reason of subsection (11);"

(2) All that portion of subparagraph 6(1)(b)(vii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(vii) reasonable allowances for travelling expenses (other than allowances for the use of a motor vehicle) received by an employee (other than an employee employed in connection with the selling of property or negotiating of contracts for the employer) from the employer for travelling away from"

(3) Subparagraph 6(1)(b)(vii.1) of the said Act is repealed and the following substituted therefor:

"(vii.1) reasonable allowances for the use of a motor vehicle received by an employee (other than an employee employed in connection with the selling of property or negotiating of contracts for the employer) from the employer for travelling in the performance of the duties of the office or employment,"

(4) All that portion of paragraph 6(1)(b) of the said Act following clause (ix)(B) thereof is repealed and the following substituted therefor:

"and, for the purposes of subparagraphs (v), (vi) and (vii.1), an allowance received in the year by the taxpayer for use of a motor vehicle in connection with or in the course of the taxpayer's office or employment shall be deemed not to be a reasonable allowance

(x) where the measurement of the use of the vehicle for the purpose of the allowance is not based solely on the number of kilometres for which the motor vehicle is used in connection with or in the course of the office or employment, or

(xi) where the taxpayer both receives an allowance in respect of that use and is reimbursed in whole or in part for expenses in respect of that use (except where the reimbursement is in respect of supplementary business insurance or parking, toll or ferry charges and the amount of the allowance was determined without reference to such reimbursed expenses);"

(5) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(6) Subsections (2) and (3) are applicable to the 1990 and subsequent taxation years.



(7) Subparagraphs 6(1)(b)(x) and (xi) of the said Act, as enacted by subsection (4), are applicable to the 1988 and subsequent taxation years, except that those subparagraphs are not applicable to the 1988 and 1989 taxation years of an individual who so elects by notifying the Minister of National Revenue in writing before May 1991.

(8) All that portion of paragraph 6(1)(b) of the said Act following clause (ix)(B) thereof and preceding subparagraph (x) thereof, as enacted by subsection (4), is applicable to the 1990 and subsequent taxation years.

4. (1) Paragraphs 7(1)(a) to (d) of the said Act are repealed and the following substituted therefor:

"(a) if the employee has acquired shares under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the shares at the time the employee acquired them

exceeds

(ii) the total of the amount paid or to be paid to the corporation by the employee for the shares and any amount paid by the employee to acquire the right to acquire the shares

shall be deemed to have been received by the employee by reason of the employee's employment in the taxation year in which the employee acquired the shares;

(b) if the employee has transferred or otherwise disposed of rights under the agreement in respect of some or all of the shares to a person with whom the employee was dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

shall be deemed to have been received by the employee by reason of the employee's employment in the taxation year in which the employee made the disposition;

(c) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a person who has acquired shares under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the shares at the time that person acquired them

exceeds

(ii) the total of the amount paid or to be paid to the corporation by that person for the shares and any amount paid by the employee to acquire the right to acquire the shares

shall be deemed to have been received by the employee by reason of the employee's employment in the taxation year in which that person acquired the shares unless at the time the person acquired the rights the employee was deceased, in which case such a benefit shall be deemed to have been received by the person in that year as income from the duties of an employment performed by the person in that year in the country in which the employee primarily performed the duties of the employee's employment;

(d) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who has transferred or otherwise disposed of rights under the agreement to another person with whom the particular person was dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

shall be deemed to have been received by the employee by reason of the employee's employment in the taxation year in which the particular person made the disposition unless at the time the other person acquired the rights the employee was deceased, in which case such a benefit shall be deemed to have been received by the particular person in that year as income from the duties of an employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's employment; and"



(2) Subsection 7(1) of the said Act is further amended by adding thereto the following paragraph:

"(e) if the employee has died and at the time of death the employee owned property that is a right to acquire shares, a benefit equal to the total of all amounts each of which is the amount, if any, by which

(i) the value immediately after that time of each such property owned by the employee at that time

exceeds

(ii) the amount, if any, paid by the employee to acquire that right

shall be deemed to have been received by the employee by reason of the employee's employment in the taxation year in which the employee died and paragraphs (b), (c) and (d) shall not apply."

(3) All that portion of subsection 7(1.1) of the said Act following paragraph (c) thereof is repealed and the following substituted therefor:

"in applying paragraph (1)(a) in respect of the employee's acquisition of the share, the reference in that paragraph to "the taxation year in which the employee acquired the shares" shall be read as "the taxation year in which the employee disposed of or exchanged the shares".

(4) Subsections 7(1.4) and (1.5) of the said Act are repealed and the following substituted therefor:

Exchange of options

"(1.4) For the purposes of this section and paragraph 110(1)(d), where

(a) a taxpayer disposes of rights under an agreement referred to in subsection (1) or (1.1) to acquire shares of the capital stock of a particular corporation that made the agreement or of a corporation with which the particular corporation does not deal at arm's length (which rights and shares are referred to in this subsection and paragraph 110(1)(d) as the "exchanged option" and the "old shares", respectively),

(b) the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with

(i) the particular corporation,

(ii) a corporation with which the particular corporation does not deal at arm's length immediately after the disposition,

(iii) a corporation formed on the amalgamation or merger of the particular corporation and one or more other corporations, or

(iv) a corporation with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition

to acquire shares of its capital stock or of the capital stock of a corporation with which it does not deal at arm's length (which rights and shares are referred to in this subsection and paragraph 110(1)(d) as the "new option" and the "new shares", respectively), and

(c) the amount, if any, by which

(i) the total value of the new shares immediately after the disposition

exceeds

(ii) the total amount payable by the taxpayer to acquire the new shares under the new option

does not exceed the amount, if any, by which

(iii) the total value of the old shares immediately before the disposition

exceeds

(iv) the amount payable by the taxpayer to acquire the old shares under the exchanged option,

the following rules apply:

(d) the taxpayer shall be deemed not to have disposed of the exchanged option and not to have acquired the new option,

(e) the new option shall be deemed to be the same option as, and a continuation of, the exchanged option, and

(f) the corporation referred to in subparagraphs (b)(ii), (iii) or (iv), as the case may be, shall be deemed to be the same corporation as, and a continuation of, the particular corporation.

#### Exchange of shares

(1.5) For the purposes of subsection (1.1) and paragraph 110(1)(d.1), where

(a) a taxpayer disposes of shares of a Canadian corporation that were acquired by the taxpayer under an agreement referred to in subsection (1.1) (in this subsection referred to as the "exchanged shares"),

(b) the taxpayer receives no consideration for the disposition of the exchanged shares other than shares (in this subsection referred to as the "new shares") of

(i) the corporation,

(ii) a corporation with which the corporation does not deal at arm's length immediately after the disposition,

(iii) a corporation formed on the amalgamation or merger of the corporation and one or more other corporations, or

(iv) a corporation with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition, and

(c) the total value of the new shares immediately after the disposition does not exceed the total value of the old shares immediately before the disposition,

the following rules apply:

(d) the taxpayer shall be deemed not to have disposed of the exchanged shares and not to have acquired the new shares,

(e) the new shares shall be deemed to be the same shares as, and a continuation of, the exchanged shares,

(f) the corporation that issued the new shares shall be deemed to be the same corporation as, and a continuation of, the corporation that issued the exchanged shares, and



(g) where the exchanged shares were issued under an agreement, the new shares shall be deemed to have been issued under that agreement."

(5) All that portion of subsection 7(6) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

Sale to trustee for employees

"(6) Where a corporation has entered into an arrangement under which shares of the corporation or of a corporation with which it does not deal at arm's length are sold or issued by either corporation to a trustee to be held by the trustee in trust for sale to an employee of the corporation or of a corporation with which it does not deal at arm's length,

(a) for the purposes of this section (except subsection (2)) and paragraphs 110(1)(d) and (d.1), any rights of the employee under the arrangement in respect of those shares, any shares acquired thereunder by the employee or by a person in whom those rights have become vested, and any amounts paid or agreed to be paid to the trustee for any shares acquired thereunder by the employee or any such person, shall be deemed to be, respectively, rights under, shares acquired under, and amounts paid or agreed to be paid to the corporation for shares acquired under, an agreement with the corporation whereby the corporation has agreed to sell or issue shares to the employee; and"

(6) Subsections (1), (3), (4) and (5) are applicable to the 1988 and subsequent taxation years.

(7) Subsection (2) is applicable with respect to deaths occurring after Announcement Date.

5. (1) Paragraph 8(1)(f) of the said Act is amended by deleting the word "or" at the end of subparagraph (v) thereof, by adding the word "or" at the end of subparagraph (vi) thereof and by adding thereto to following subparagraph:

"(vii) amounts the payment of which reduced the amount that would otherwise be included in computing the taxpayer's income for the year by reason of paragraph 6(1)(e);"

(2) Paragraph 8(1)(h) of the said Act is amended by adding the word "and" at the end of subparagraph (i) thereof, by striking out the word "and" at the end of subparagraph (ii) thereof and by repealing all that portion thereof following subparagraph (ii) thereof and substituting the following therefor:



"amounts expended by the taxpayer in the year (other than motor vehicle expenses) for travelling in the course of the taxpayer's employment except where the taxpayer

(iii) received an allowance for travelling expenses that was, by reason of subparagraph 6(1)(b)(v), (vi) or (vii), not included in computing the taxpayer's income for the year, or

(iv) claimed a deduction for the year under paragraph (e), (f) or (g);"

(3) Subsection 8(1) of the said Act is further amended by adding thereto, immediately after paragraph (h) thereof, the following paragraph:

Motor vehicle travelling expenses

"(h.1) where the taxpayer, in the year,

(i) was ordinarily required to carry on the duties of employment away from the employer's place of business or in different places, and

(ii) was required under the contract of employment to pay the motor vehicle expenses incurred in the performance of the duties of the office or employment,

amounts expended by the taxpayer in the year in respect of motor vehicle expenses incurred for travelling in the course of employment, except where the taxpayer

(iii) received an allowance for motor vehicle expenses that was, by reason of subparagraph 6(1)(b)(vii.1), not included in computing the taxpayer's income for the year, or

(iv) claimed a deduction for the year under paragraph (f);"

(4) All that portion of paragraph 8(1)(j) of the said Act preceding clause (i)(B) thereof is repealed and the following substituted therefor:

Motor vehicle and aircraft costs

"(j) where a deduction may be made under paragraph (f), (h) or (h.1) in computing the taxpayer's income from an office or employment for a taxation year,

(i) any interest paid by the taxpayer in the year on borrowed money used for the purpose of acquiring, or on an amount payable for the acquisition of, property that is

(A) a motor vehicle that is used, or"

(5) Clause 8(1)(j)(ii)(A) of the said Act is repealed and the following substituted therefor:

"(A) a motor vehicle that is used, or"

(6) Subsection 8(10) of the said Act is repealed and the following substituted therefor:

Certificate of employer

"(10) An amount otherwise deductible for a taxation year under paragraph (1)(f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless the taxpayer files with the taxpayer's return of income for the year under this Part a prescribed form signed by the taxpayer's employer certifying that the conditions set out in such provision were met in the year in respect of the taxpayer."

(7) Section 8 of the said Act is further amended by adding thereto the following subsections:

Return of employee shares by trustee

"(12) Where, in a taxation year,

(a) an employee is deemed by reason of subsection 7(2) to have disposed of a share held by a trust,

(b) the trust disposed of the share to the corporation that issued the share,

(c) the disposition occurred as a result of the employee not meeting the conditions necessary for title to the share to vest in the employee, and

(d) the amount paid by the corporation to acquire the share from the trust did not exceed the amount paid to the corporation for the share,

the following rules apply:

(e) there may be deducted in computing the employee's income for the taxation year from employment the amount, if any, by which

(i) the amount of the benefit deemed by subsection 7(1) to have been received by the employee in the year or a preceding taxation year in respect of the share

exceeds

(ii) any amount deducted under paragraph 110(1)(d) or (d.1) in computing the employee's taxable income for the year or a preceding taxation year in respect of that benefit, and

(f) notwithstanding any other provision of this Act, any gain or loss of the employee otherwise determined from the disposition of the share shall be deemed to be nil.

#### Work space in home

(13) Notwithstanding paragraph (1)(f) and subparagraph (1)(i)(ii)

(a) no amount is deductible in computing an individual's income for a taxation year from an office or employment in respect of any part (in this subsection referred to as the "work space") of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either

(i) the place where the individual principally performs the duties of the office or employment, or

(ii) used exclusively during the period in respect of which the amount relates for the purpose of earning income from the office or employment and used on a regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment;

(b) where the conditions set out in subparagraph (a)(i) or (ii) are met, the amount in respect of the work space that is deductible in computing the individual's income for the year from the office or employment shall not exceed the individual's income for the year from the office or employment, computed without reference to any deduction in respect of the work space; and

(c) any amount in respect of a work space that was, by reason only of paragraph (b), not deductible in computing the individual's

income for the immediately preceding taxation year from the office or employment shall be deemed to be an amount in respect of a work space that is otherwise deductible in computing the individual's income for the year from that office or employment and that, subject to paragraph (b), may be deducted in computing the individual's income for the year from the office or employment."

(8) Subsection (1) is applicable to the 1990 and subsequent taxation years.

(9) Subsections (2) to (6) and subsection 8(12) of the said Act, as enacted by subsection (7), are applicable to the 1988 and subsequent taxation years.

(10) Subsection 8(13) of the said Act, as enacted by subsection (7), is applicable to the 1991 and subsequent taxation years.

6. (1) Subsection 10(1.1) of the said Act is repealed and the following substituted therefor:

Certain expenses included in cost

"(1.1) For the purposes of subsection (1), the cost to a particular taxpayer of land that is described in the inventory of a business carried on by the taxpayer shall include each amount described in paragraph 18(2)(a) or (b) in respect of that land for which no deduction is permitted to the taxpayer or to another person in respect of whom the taxpayer was a person, corporation or partnership described in clause 18(3)(b)(ii)(A), (B) or (C), where that amount was not included in or added to the cost to that other person of any property otherwise than by reason of paragraph 53(1)(d.3) or subparagraph 53(1)(e)(xi)."

(2) Section 10 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following, subsection:

Methods of valuation to be same

"(2.1) Where property described in the inventory of a business of a taxpayer at the end of a taxation year is valued in accordance with a method provided for under this section, that method shall, subject to subsection (6), be used in the valuation of property described in the inventory of that business at the end of the following taxation year for the purpose of computing the taxpayer's income from that business unless the taxpayer, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts another method provided for under this section."



(3) Subsection (1) is applicable to the 1988 and subsequent taxation years.

(4) Subsection (2) is applicable with respect to computations of income for the 1990 and subsequent taxation years.

7. (1) Clause 12(1)(o)(v)(B) of the said Act is repealed and the following substituted therefor:

"(B) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource,"

(2) Paragraph 12(11)(a) of the said Act is repealed and the following substituted therefor:

"investment contract"  
«*contrat de placement*»

"(a) "investment contract", in relation to a taxpayer, means any debt obligation other than

(i) a salary deferral arrangement,

(ii) an obligation in respect of a foreign retirement arrangement,

(iii) an income bond,

(iv) an income debenture,

(v) a small business development bond,

(vi) a small business bond,

(vii) an obligation in respect of which the taxpayer has (otherwise than by reason of subsection (4)) at periodic intervals of not more than one year, included, in computing the taxpayer's income throughout the period in which the taxpayer held an interest in the obligation, the income accrued thereon for such intervals, or

(viii) a prescribed contract;"

(3) Subsection (1) is applicable with respect to amounts becoming receivable after Announcement Date.

(4) Subsection (2) is applicable to the 1985 and subsequent taxation years, except that

(a) in its application to the 1985 to 1989 taxation years, paragraph 12(11)(a) of the said Act, as enacted by subsection (2), shall be read without reference to subparagraph (ii) thereof; and

(b) in applying subparagraph 12(11)(a)(vii) of the said Act, as enacted by subsection (2), in respect of debt obligations acquired before 1990, the reference in that subparagraph to "not more than one year" shall be read as a reference to "not more than 3 years".

8. (1) Subsection 12.2(1) of the said Act is repealed.

(2) All that portion of subsection 12.2(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Amount to be included

"12.2 (1) Where in a taxation year a taxpayer holds an interest in a life insurance policy last acquired after 1989, other than"

(3) All that portion of subsection 12.2(5) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Idem

"(5) Where in a taxation year subsection (1) applies with respect to a taxpayer's interest in an annuity contract (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), there shall be included in computing the taxpayer's income for the year the amount, if any, by which"

(4) Subsection 12.2(8) of the said Act is repealed and the following substituted therefor:

Deemed acquisition of interest in annuity

"(8) For the purposes of this section, the first premium that was not fixed before 1990 and that was paid after 1989 by or on behalf of a taxpayer under an annuity contract, other than a contract described in paragraph (1)(d) or (3)(e) or to which subsection (1) or (4) applies (as those paragraphs and subsections read in their application to life insurance policies last acquired before 1990) or to which subsection 12(3) applies, last acquired by the taxpayer before 1990 (in this subsection referred to as the "original contract") shall be deemed to have been paid to acquire, at the time the premium was paid, an interest in a separate annuity contract issued at that time, to the extent that the amount of the premium was not

fixed before 1990, and each subsequent premium paid under the original contract shall be deemed to have been paid under such separate contract to the extent that the amount of that subsequent premium was not fixed before 1990."

(5) Paragraph 12.2(11)(b) of the said Act is repealed and the following substituted therefore:

"anniversary day"  
«jour anniversaire»

"(b) "anniversary day" of a life insurance policy means

(i) the day that is one year after the day immediately preceding the day on which the policy was issued, and

(ii) each day that occurs at each successive one year interval from the day determined under subparagraph (i)."

(6) Subsections (1) to (3) and (5) are applicable with respect to life insurance policies last acquired after 1989.

(7) Subsection (4) is applicable with respect to premiums paid after 1989.

9. (1) Paragraph 13(4.1)(b) of the said Act is repealed and the following substituted therefor:

"(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the particular depreciable property was acquired for the purpose of gaining or producing income from that or a similar business or for the use by that related person for such a purpose; and"

(2) Paragraph 13(4.1)(c) of the said Act is repealed and the following substituted therefor:

"(c) the particular depreciable property was taxable Canadian property or would have been taxable Canadian property if the taxpayer were non-resident throughout the year in which the particular property was acquired and the property were used in a business carried on by the taxpayer."

(3) Subsection 13(6) of the said Act is repealed and the following substituted therefor:

Misclassified property



"(6) Where, in calculating the amount of a deduction allowed to a taxpayer under subsection 20(16) or regulations made under paragraph 20(1)(a) in respect of depreciable property of the taxpayer of a prescribed class (in this subsection referred to as the "particular class"), there has been added to the capital cost to the taxpayer of depreciable property of the particular class the capital cost of depreciable property (in this subsection referred to as "added property") of another prescribed class, for the purposes of this section, section 20 and any regulations made under paragraph 20(1)(a), the added property shall, if the Minister so directs with respect to any taxation year for which under subsection 152(4) the Minister may make any reassessment or additional assessment or assess tax, interest or penalties under this Part, be deemed to have been property of the particular class and not of the other class at all times before the commencement of that year and, except to the extent that the added property or any part thereof has been disposed of by the taxpayer before the commencement of that year, to have been transferred from the particular class to the other class at the commencement of that year."

(4) Paragraphs 13(7)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) where a taxpayer, having acquired property for the purpose of gaining or producing income, has commenced at a later time to use it for some other purpose, the taxpayer shall be deemed to have disposed of it at that later time for proceeds of disposition equal to its fair market value at that time and to have reacquired it immediately thereafter at a cost equal to that fair market value;

(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income, the taxpayer shall be deemed to have acquired it at that later time at a capital cost to the taxpayer equal to the lesser of

(i) the fair market value of the property at that later time, and

(ii) the total of

(A) the cost to the taxpayer of the property at that later time determined without reference to paragraph (a), this paragraph and subparagraph (d)(ii), and

(B)  $\frac{3}{4}$  of the amount, if any, by which

(I) the fair market value of the property at that later time



exceeds the total of

(II) the cost to the taxpayer of the property as determined under clause (A), and

(III)  $\frac{4}{3}$  of the amount deducted by the taxpayer under section 110.6 in respect of the amount, if any, by which the fair market value of the property at that later time exceeds the cost to the taxpayer of the property as determined under clause (A);"

(5) Paragraph 13(7)(c) of the said Act is repealed and the following substituted therefor:

"(c) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income and in part for some other purpose, the taxpayer shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the taxpayer equal to the same proportion of the capital cost to the taxpayer of the whole property and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property;"

(6) Subclauses 13(7)(d)(i)(B)(II) and (III) of the said Act are repealed and the following substituted therefor:

"(II) that proportion of the cost to the taxpayer of the property as determined under subclause (A)(II) that the amount of the increase in the use regularly made by the taxpayer of the property for that purpose is of the whole of the use regularly made of the property, and

(III)  $\frac{4}{3}$  of the amount deducted by the taxpayer under section 110.6 in respect of the amount, if any, by which the amount determined under subclause (I) exceeds

the amount determined under subclause (II), and"

(7) All that portion of paragraph 13(7)(e) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(e) notwithstanding any other provision of this Act, where at a particular time a person or partnership (in this paragraph referred to as the "taxpayer") has, directly or indirectly, in any manner whatever, acquired (otherwise than as a consequence of the death of the transferor) a depreciable property of a prescribed class from a person or partnership with whom the taxpayer did not deal at arm's length (in this paragraph referred to as the "transferor") and the property was a capital property of the transferor,"

(8) All that portion of paragraph 13(7)(h) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(h) notwithstanding paragraph (g), where a passenger vehicle is acquired by a taxpayer at any time from a person with whom the taxpayer does not deal at arm's length, the capital cost at that time to the taxpayer of the vehicle shall be deemed to be the least of"

(9) Paragraph 13(21)(a) of the said Act is repealed and the following substituted therefor:

"conversion"  
«*conversion*»

"(a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a taxpayer and "conversion cost" means the cost of a conversion;"

(10) Paragraph 13(21)(e) of the said Act is repealed and the following substituted therefor:

"total depreciation"  
«*amortissement total*»

"(e) "total depreciation" allowed to a taxpayer before any time for property of a prescribed class means the total of all amounts each of which is an amount deducted by the taxpayer by reason of paragraph 20(1)(a) in respect of property of that class or an amount deducted under subsection 20(16), or that would have been so deducted but for subsection 20(16.1), in computing the taxpayer's income for taxation years ending before that time;"

(11) Section 13 of the said Act is further amended by adding thereto the following subsections:

Restriction on deduction before available for use

"(26) In applying paragraph (21)(f) for the purposes of paragraph 20(1)(a) and any regulations made under paragraph 20(1)(a), in computing a taxpayer's income for a taxation year from a business or property, no amount shall be included in calculating the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class in respect of the capital cost to the taxpayer of a property of that class (other than property that is a certified production, as defined by regulations made under paragraph 20(1)(a)) before the time at which the property is considered to have become available for use by the taxpayer.

Interpretation - available for use

(27) For the purposes of subsection (26) and subject to subsection (29), property (other than a building or part thereof) acquired by a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

- (a) the time at which the property is first used by the taxpayer for the purpose of earning income,
- (b) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,
- (c) the time that is immediately before the disposition of the property by the taxpayer,
- (d) the time at which the property has been delivered or made available to the taxpayer and is capable, either alone or in combination with other property within the possession of the taxpayer at that time, of producing a commercially saleable product or performing a commercially saleable service, including an intermediate product or service that is used or consumed, or to be used or consumed, by the taxpayer in producing or providing any such product or service,
- (e) in the case of property acquired by the taxpayer for the prevention, reduction or elimination of air or water pollution created by operations carried on by the taxpayer or that would be created by such operations if the property had not been acquired, the time at which the property is installed and capable of performing the function for which it was acquired,



(f) in the case of property acquired by

(i) a corporation a class of shares of the capital stock of which is listed on a prescribed stock exchange,

(ii) a corporation that is a public corporation by reason of an election made under clause 89(1)(g)(ii)(A) or a designation made by the Minister in a notice to the corporation under clause 89(1)(g)(ii)(B), or

(iii) a subsidiary wholly-owned corporation of a corporation described in subparagraph (i) or (ii),

the end of the taxation year for which depreciation in respect of the property is first deducted in computing the earnings of the corporation in accordance with generally accepted accounting principles and for the purpose of the financial statements of the corporation for the year presented to its shareholders,

(g) in the case of property acquired by the taxpayer in the course of carrying on a business of farming or fishing, the time at which the property has been delivered to the taxpayer and is capable of performing the function for which it was acquired,

(h) in the case of property of a taxpayer that is a motor vehicle, trailer, trolley bus, aircraft or vessel for which one or more permits, certificates or licences evidencing that the property may be operated by the taxpayer in accordance with any laws regulating the use of such property are required to be obtained, the time at which all such permits, certificates or licences have been obtained,

(i) in the case of property that is a spare part intended to replace a part of another property of the taxpayer if required due to a breakdown of that other property, the time at which the other property has become available for use by the taxpayer,

(j) in the case of a concrete gravity base structure and topside modules intended to be used at an oil production facility in a commercial discovery area (within the meaning assigned that expression by the *Canada Petroleum Resources Act*) on which the drilling of the first well that indicated the discovery commenced before March 5, 1982, in an offshore region prescribed for the purposes of subsection 127(9), the time at which the gravity base structure deballasts and lifts the assembled topside modules, and

(k) where the property is a replacement property (for the purposes of subsection (4)) for a property described in paragraph (4)(a) that was acquired before 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired,

and for the purposes of paragraph (f), where such depreciation is calculated by reference to a portion of the cost of the property, only that portion of the property shall be considered to have become available for use at the end of the taxation year referred to in that paragraph.

Idem

(28) For the purposes of subsection (26) and subject to subsection (29), property that is a building or part thereof of a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

(a) the time at which all or substantially all of the building is first used by the taxpayer for the purpose for which it was acquired,

(b) the time at which the construction of the building is complete,

(c) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,

(d) the time that is immediately before the disposition of the property by the taxpayer, and

(e) where the property is a replacement property (for the purposes of subsection (4)) for a property described in paragraph (4)(a) that was acquired before 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired,

and for the purpose of this subsection a renovation, alteration or addition to a particular building shall be considered to be a building separate from the particular building.

Idem

(29) For the purposes of subsection (26), where a taxpayer has acquired property (other than a building that is used or to be used by the

taxpayer principally for the purpose of gaining or producing gross revenue that is rent) in the taxpayer's first taxation year (in this subsection referred to as the "particular year") commencing more than 357 days after the end of the taxpayer's taxation year in which the taxpayer first acquired property after 1989 that is part of a project of the taxpayer, or in a taxation year subsequent to the particular year, and at the end of any taxation year (in this subsection referred to as the "inclusion year") of the taxpayer

(a) the property may reasonably be considered to be part of the project, and

(b) the property has not otherwise become available for use,

if the taxpayer so elects in prescribed form filed with the taxpayer's return of income under this Part for the particular year, that particular portion of the property the capital cost of which does not exceed the amount, if any, by which

(c) the total of all amounts each of which is the capital cost to the taxpayer of a depreciable property (other than a building that is used or to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent) that is part of the project, that was acquired by the taxpayer after 1989 and before the end of the taxpayer's last taxation year ending more than 357 days before the commencement of the inclusion year and that has not become available for use at or before the end of the inclusion year (except where the property has first become available for use before the end of the inclusion year by reason of paragraph (27)(b) or (28)(c) or this subsection)

exceeds

(d) the total of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than the particular portion of the property, that is part of the project to the extent that the property is considered, by reason of this subsection, to have become available for use before the end of the inclusion year

shall be considered to have become available for use immediately before the end of the inclusion year.

#### Transfers of property

(30) Notwithstanding subsections (27) to (29), for the purposes of subsection (26), property of a taxpayer shall be deemed to have become available for use by the taxpayer at the time at which the property was acquired where



(a) the property was acquired

(i) from a person with whom the taxpayer was not dealing at arm's length (otherwise than by reason of a right referred to in paragraph 251(5)(b)) at that time, or

(ii) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, subsection 55(2) would not be applicable to the dividend by reason of the application of paragraph 55(3)(b); and

(b) the property had become available for use by the person from whom it was acquired (determined without reference to paragraphs (27)(c) and (28)(d)) before that time.

Idem

(31) For the purposes of paragraphs (27)(b) and (28)(c) and subsection (29), where a property of a taxpayer was acquired from a person (in this subsection referred to as "the transferor")

(a) with whom the taxpayer was, at the time the taxpayer acquired the property, not dealing at arm's length (otherwise than by reason of a right referred to in paragraph 251(5)(b)), or

(b) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, subsection 55(2) would not be applicable to the dividend by reason of the application of paragraph 55(3)(b),

the taxpayer shall be deemed to have acquired the property at the time it was acquired by the transferor.

Leased property

(32) Where a taxpayer has leased property that is depreciable property of a person with whom the taxpayer does not deal at arm's length, the amount, if any, by which

(a) the total of any amounts paid or payable by the taxpayer for the use of, or the right to use, the property in a particular taxation year and before the time at which the property would have been considered to have become available for use by the taxpayer if the taxpayer had acquired the property, and which, but for this subsection, would be deductible in computing the taxpayer's income for any taxation year

exceeds

(b) the total of any amounts received or receivable by the taxpayer for the use of, or the right to use, the property in the particular taxation year and before that time and which are included in the income of the taxpayer for any taxation year

shall be deemed to be a cost to the taxpayer of a property included in Class 13 in Schedule II to the *Income Tax Regulations* and not to be an amount paid or payable for the use of, or the right to use, the property."

(12) Subsection (1) is applicable with respect to dispositions of former properties occurring after Announcement Date.

(13) Subsection (2) is applicable with respect to property acquired as a replacement for a former property disposed of after April 2, 1990, other than a former property disposed of

(a) pursuant to an agreement in writing entered into before April 3, 1990; or

(b) pursuant to a written notice of an intention to take the property under statutory authority given before April 3, 1990 or for the sale price of the property sold to a person by whom such a notice was given before April 3, 1990.

(14) Subsection (3) is applicable after April 19, 1983.

(15) Subsections (4) and (6) are applicable with respect to changes in use occurring after May 22, 1985, except that

(a) in applying paragraph 13(7)(a) of the said Act, as enacted by subsection (4), to changes in use occurring before May, 1988, it shall be read as follows:

"(a) where a taxpayer, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the taxpayer shall be deemed to have disposed of it at that later time for proceeds of disposition equal to its fair market value at that time and to have immediately thereafter reacquired it at a cost equal to that fair market value;" and

(b) in applying clause 13(7)(b)(ii)(B) and subclause 13(7)(d)(i)(B)(III) of the said Act, as enacted by subsections (4) and (6),

(i) to changes in use of property by a person or partnership in taxation years and fiscal periods ending before 1988, the references, if any, therein to "3/4" and "4/3" shall be read as references to "1/2" and "2 times", respectively,

(ii) to changes in use of property by an individual or a partnership in taxation years and fiscal periods ending after 1987 and before 1990, the references, if any, therein to "3/4" and "4/3" shall be read as references to "2/3" and "3/2", respectively,

(iii) to changes in use of property by a corporation in taxation years ending after 1987 and commencing before 1990 throughout which the corporation was a Canadian-controlled private corporation, the reference in that clause to "3/4" shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(A) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1988 is of the number of days in the year,

(B) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(C) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year, and

(iv) to changes in use of property by a corporation in taxation years ending after 1987 and commencing before 1990 where throughout the year the corporation was not a Canadian-controlled private corporation, the reference in that clause to "3/4" shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(A) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before July, 1988 is of the number of days in the year,

(B) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(C) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year.



(16) Subsection (5) is applicable with respect to changes in use occurring after April 1988.

(17) Subsection (7) is applicable with respect to property acquired after May 22, 1985.

(18) Subsections (8) and (10) are applicable with respect to taxation years and fiscal period commencing after June 17, 1987 that end after 1987.

(19) Subsection (9) is applicable with respect to conversions commencing after Announcement Date.

(20) Subsections 13(26) to (29) of the said Act, as enacted by subsection (11), are applicable in respect of property acquired by a taxpayer after 1989 other than property acquired

(a) from a person with whom the taxpayer was not dealing at arm's length (otherwise than by reason of a right referred to in paragraph 251(5)(b) of the said Act) at the time the property was acquired, or

(b) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, subsection 55(2) of the said Act would not be applicable to the dividend by reason of the application of paragraph 55(3)(b) of the said Act,

where the property was depreciable property of the person from whom it was acquired and was owned by that person before 1990.

(21) Subsections 13(30) and (31) of the said Act, as enacted by subsection (11), are applicable in respect of property acquired after 1989.

(22) Subsection 13(32) of the said Act, as enacted by subsection (11), is applicable in respect of depreciable property of a person referred to in that subsection that was acquired by that person after 1989.

10. (1) Subparagraph 14(1)(a)(v) of the said Act is repealed and the following substituted therefor:

"(v) the amount, if any, by which the excess exceeds the total of

(A) the amount determined under subparagraph (iv), and

(B) 1/2 of the amount determined under clause (5)(a)(v)(B) in respect of the business

shall be deemed to be a taxable capital gain of the taxpayer from a disposition of capital property by the taxpayer in the year and, for the purposes of section 110.6, that property shall be deemed to have been disposed of by the taxpayer in the year; and"

(2) Subsection 14(3) of the said Act is repealed and the following substituted therefor:

Acquisition of eligible capital property

"(3) Notwithstanding any other provision of this Act, where at any time a person or partnership (in this subsection referred to as the "taxpayer") has, directly or indirectly, in any manner whatever, acquired an eligible capital property in respect of a business from a person or partnership with whom the taxpayer did not deal at arm's length (in this subsection referred to as the "transferor") and the property was an eligible capital property of the transferor (other than property acquired by the taxpayer as a consequence of the death of the transferor), the eligible capital expenditure of the taxpayer in respect of the business shall, in respect of that acquisition, be deemed to be equal to  $\frac{4}{3}$  of the amount, if any, by which

(a) the amount determined under subparagraph (5)(a)(iv) in respect of the disposition of the property by the transferor

exceeds

(b) the total of all amounts each of which is an amount that may reasonably be considered to have been claimed as a deduction under section 110.6 by any person with whom the taxpayer was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before that time,

except that, where the taxpayer has disposed of the property after that time, the amount of the eligible capital expenditure deemed by this subsection to have been made by the taxpayer in respect of the property shall be determined at any time after the disposition as if the amount determined under paragraph (b) in respect thereof were the lesser of

(c) the amount otherwise so determined, and

(d) the amount, if any, by which

(i) the amount determined under paragraph (a) in respect of the disposition of the property by the transferor

exceeds

(ii) the amount determined under subparagraph (5)(a)(iv) in respect of the disposition of the property by the taxpayer."

(3) Paragraph 14(7)(c) of the said Act is repealed and the following substituted therefor:

"(c) the particular property was acquired for use by the taxpayer in a business carried on by the taxpayer in Canada."

(4) Subsection (1) is applicable to fiscal periods commencing after 1987.

(5) Subsection (2) is applicable with respect to acquisitions of property occurring after 1987, except that, in its application to acquisitions by a taxpayer after 1987 and before the taxpayer's adjustment time in respect of the business in which the property is used, the reference in subsection 14(3) of the said Act, as enacted by subsection (2), to "4/3 of" shall be read as a reference to "2 times".

(6) Subsection (3) is applicable with respect to property acquired as a replacement for a former property disposed of after April 2, 1990, other than a former property disposed of

(a) pursuant to an agreement in writing entered into before April 3, 1990; or

(b) pursuant to a written notice of an intention to take the property under statutory authority given before April 3, 1990 or for the sale price of the property sold to a person by whom such a notice was given before April 3, 1990.

11. (1) Subparagraph 15(2)(a)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) in respect of an individual who is an employee of the lender or creditor or the spouse of an employee of the lender or creditor to enable or assist the individual to acquire a dwelling or a share of the capital stock of a co-operative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the individual's habitation,"

(2) Subparagraph 15(2)(a)(iii) of the said Act is repealed and the following substituted therefor:



"(iii) where the lender or creditor is a corporation, in respect of an employee of the corporation, or of another corporation that is related to the corporation, to enable or assist the employee to acquire from the corporation, or to acquire from a corporation related thereto, fully paid shares of the capital stock of the related corporation, to be held by the employee for the employee's own benefit, or"

(3) Subsection (1) is applicable to the 1985 and subsequent taxation years.

(4) Subsection (2) is applicable with respect to loans made and indebtedness arising after 1989 and, subject to subsections 152(4) to (5) of the said Act, with respect to loans made and indebtedness arising after 1981 and before 1990.

12. (1) All that portion of subsection 16.1(1) of the said Act preceding paragraph (e) thereof is repealed and the following substituted therefor:

#### Leasing properties

"16.1 (1) Where a taxpayer (in this section referred to as the "lessee") has leased tangible property (other than prescribed property) that would, if the lessee had acquired the property, have been depreciable property of the lessee, from a person resident in Canada (or from a person who is not resident in Canada and who holds the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part) who owns the property and with whom the lessee was dealing at arm's length (in this section referred to as the "lessor") for a term of more than one year, if the lessee and the lessor have jointly elected in prescribed form filed with their returns of income under this Part for their respective taxation years that include the particular time when the lease commenced, the following rules apply for the purposes of computing the income of the lessee for the taxation year that includes the particular time and for all subsequent taxation years:

(a) in respect of amounts paid or payable for the use of, or for the right to use, the property, the lease shall be deemed not to be a lease;

(b) the lessee shall be deemed to have acquired the property from the lessor at the particular time at a cost equal to its fair market value at that time;

(c) the lessee shall be deemed to have borrowed money from the lessor at the particular time, for the purpose of acquiring the

property, in a principal amount equal to the fair market value of the property at that time;

(d) interest shall be deemed to accrue on the principal amount of the borrowed money outstanding from time to time, compounded semi-annually, not in advance, at the prescribed rate in effect

(i) at the earlier of

(A) the time, if any, before the particular time, at which the lessee last entered into an agreement to lease the property, and

(B) the particular time, or

(ii) where the lease provides that the amount payable by the lessee for the use of, or the right to use, the property varies according to prevailing interest rates in effect from time to time, and the lessee so elects, in respect of all of the property that is subject to the lease, in the lessee's return of income under this Part for the taxation year of the lessee in which the lease commenced, at the beginning of the period for which the interest is being calculated;"

(2) Paragraph 16.1(1)(i) of the said Act is repealed and the following substituted therefor:

"(i) where the lessee has made an election under this subsection in respect of a property and, at any time after the lease was entered into, the owner of the property is a person who is not resident in Canada and who does not hold the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part, for the purposes of this subsection the lease shall be deemed to have been cancelled at that time."

(3) Paragraph 16.1(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) if the lessee and the assignee have jointly elected by filing the prescribed form with their returns of income under this Part for their respective taxation years that include the particular time, subsection (1) shall apply to the assignee as if

(i) the assignee leased the property at that time from the owner of the property for a term of more than one year, and

(ii) the assignee and the owner of the property jointly elected under subsection (1) in respect of the property with their returns of income under this Part for their respective taxation years that include the particular time."

(4) Section 16.1 of the said Act is further amended by adding thereto the following subsections:

Replacement property

"(5) For the purposes of subsection (1), where at any time a property (in this subsection referred to as a "replacement property") is provided by a lessor to a lessee as a replacement for a similar property of the lessor (in this subsection referred to as the "original property") that was leased by the lessor to the lessee, and the amount payable by the lessee for the use of, or the right to use, the replacement property is the same as the amount that was so payable in respect of the original property, the replacement property shall be deemed to be the same property as the original property.

Additional property

(6) For the purposes of subsection (1), where at any particular time

(a) an addition or alteration (in this subsection referred to as "additional property") is made by a lessor to a property (in this subsection referred to as the "original property") of the lessor that is the subject of a lease,

(b) the lessor and the lessee of the original property have filed the joint election referred to in subsection (1) in respect of the original property, and

(c) as a consequence of the addition or alteration, the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property,

the following rules apply:

(d) the lessee shall be deemed to have leased the additional property from the lessor at the particular time,

(e) the term of the lease of the additional property shall be deemed to be greater than one year,



(f) the lessor and the lessee shall be deemed to have jointly elected in accordance with subsection (1) in respect of the additional property,

(g) the prescribed rate in effect at the particular time in respect of the additional property shall be deemed to be equal to the prescribed rate in effect in respect of the original property at the particular time,

(h) the additional property shall be deemed not to be prescribed property, and

(i) the excess described in paragraph (c) shall be deemed to be an amount payable by the lessee for the use of, or the right to use, the additional property.

#### Renegotiation of lease

(7) For the purposes of subsection (1), where at any time

(a) a lease (in this subsection referred to as the "original lease") of property is renegotiated in the course of a bona fide renegotiation, and

(b) as a result of the renegotiation, the amount payable by the lessee of the property for the use of, or the right to use, the property, is altered in respect of a period after that time (otherwise than by reason of an addition or alteration to which subsection (6) applies),

the original lease shall be deemed to have expired and the renegotiated lease shall be deemed to be a new lease of the property entered into at that time."

(5) Subsections (1) to (4) are applicable with respect to leases and subleases entered into after 10 p.m. Eastern Daylight Saving Time, April 26, 1989, other than

(a) leases entered into pursuant to an agreement in writing entered into at or before 10 p.m. Eastern Daylight Saving Time, April 26, 1989 under which the lessee thereunder has the right to require the lease of the property, and

(b) subleases of properties that are subject to leases described in paragraph (a) or to leases entered into at or before 10 p.m. Eastern Daylight Saving Time, April 26, 1989,

except that, with respect to leases and subleases entered into after 10 p.m. Eastern Daylight Saving Time, April 26, 1989 and before June 12, 1989, subsection 16.1(1) of the said Act, as amended by subsections (1) and (2), shall be read without reference to paragraph (i) thereof, the words "resident in Canada (or from a person who is not resident in Canada and who holds the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part)" and the words "and with whom the lessee was dealing at arm's length" and, with respect to leases and subleases entered into after June 11, 1989 and before Announcement Date, subsection 16.1(1) of the said Act, as amended by subsections (1) and (2), shall be read without reference to clause (d)(i)(A) thereof, the words "the earlier of" and the words "any income from which is subject to tax under this Part".

13. (1) Clause 18(1)(m)(v)(B) of the said Act is repealed and the following substituted therefor:

"(B) metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource in Canada to any stage that is not beyond the prime metal stage or its equivalent,"

(2) Paragraph 18(1)(o.1) of the said Act is repealed and the following substituted therefor:

Salary deferral arrangement

"(o.1) except as expressly permitted by paragraphs 20(1)(oo) and (pp), an outlay or expense made or incurred under a salary deferral arrangement in respect of another person other than such an arrangement established primarily for the benefit of one or more non-resident employees in respect of services to be rendered outside Canada;"

(3) Paragraph 18(1)(s) of the said Act is repealed and the following substituted therefor:

Loans or lending assets

"(s) any loss, depreciation or reduction in the value or amortized cost of a loan or lending asset of a taxpayer made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money and not disposed of by the taxpayer in the taxation year, except as expressly permitted by this Part."

(4) All that portion of paragraph 18(3.1)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by reason of paragraph 20(1)(a) or (aa), or subsection 20(29) that may reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building by or on behalf of the taxpayer, a person with whom the taxpayer does not deal at arm's length, a corporation of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10% or more and relating to the construction, renovation or alteration, or a cost attributable to that period and relating to the ownership during that period of land"

(5) All that portion of subsection 18(3.5) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

#### Exceptions

"(3.5) Subsection (3.1) does not apply in respect of an outlay or expense in respect of a building or the land described in subparagraph (3.1)(a)(i) or (ii) with respect to the building,"

(6) Section 18 of the said Act is further amended by adding thereto, immediately after subsection (9) thereof, the following subsection:

#### Penalties, bonuses and rate reduction payments

"(9.1) For the purposes of paragraph 12(1)(c), subsection (9) and paragraph 20(1)(c), a payment made by a taxpayer to another person or partnership as consideration for a reduction in the rate of interest payable by the taxpayer in respect of a debt obligation owing by the taxpayer, or as a penalty or bonus payable by the taxpayer by reason of the repayment by the taxpayer of all or part of the principal amount of a debt obligation before its maturity, shall be deemed

(a) to be receivable and to have been received by the other person or partnership as interest; and

(b) to be payable and to have been paid by the taxpayer as interest pursuant to a legal obligation to pay interest in respect of the period for which the rate of interest is to be reduced or the period that would, but for the repayment, be the remaining term of the obligation, as the case may be."

(7) All that portion of subsection 18(11) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:



## Limitation

"(11) Notwithstanding any other provision of this Act, in computing the income of a taxpayer for a taxation year, no amount is deductible under paragraph 20(1)(c), (d), (e) or (e.1) in respect of borrowed money (or other property acquired by the taxpayer) in respect of any period after which such money (or other property) is used by the taxpayer for the purpose of"

(8) Subsection 18(11) of the said Act is further amended by adding thereto, immediately after paragraph (e) thereof, the following:

"and for the purposes of this subsection, where an indebtedness is incurred by a taxpayer with respect to a property and at any time that property or a property substituted therefore is used for any of the purposes referred to in paragraphs (a) to (e), the indebtedness shall be deemed to be incurred at that time for that purpose."

(9) Subsection (1) is applicable with respect to amounts becoming payable after Announcement Date.

(10) Subsection (2) is applicable to the 1986 and subsequent taxation years.

(11) Subsection (3) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(12) Subsection (4) is applicable to the 1987 and subsequent taxation years except that, in its application with respect to buildings acquired before 1990, all that portion of paragraph 18(3.1)(a) of the said Act preceding subparagraph (i) thereof, as enacted by subsection (4), shall be read as follows:

"(a) no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by reason of paragraph 20(1)(a) or (aa) or section 37 or 37.1, that may reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building by or on behalf of the taxpayer, a person with whom the taxpayer does not deal at arm's length, a corporation of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10% or more and relating to such construction, renovation or alteration, or a cost attributable to that period and relating to the ownership during that period of land".

(13) Subsection (5) is applicable with respect to outlays and expenses made or incurred after May 9, 1985.

(14) Subsection (6) is applicable with respect to payments made after 1984 except that, in its application with respect to payments made before Announcement Date, subsection 18(9.1) of the said Act, as enacted by subsection (6), shall be read without reference to paragraph (a) thereof.

(15) Subsections (7) and (8) are applicable to the 1990 and subsequent taxation years.

14. (1) Subparagraph 19(5)(b)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) a partnership

(A) in which interests representing in value at least 3/4 of the total value of the partnership property are beneficially owned by, and

(B) at least 3/4 of each income or loss of which from any source is included in the determination of the income of,

corporations described by subparagraph (v) or Canadian citizens or any combination thereof,"

(2) Clause 19(5)(b)(v)(C) of the said Act is repealed and the following substituted therefor:

"(C) which, if it is a corporation having share capital, is

(I) a public corporation a class or classes of shares of the capital stock of which are listed on a prescribed stock exchange in Canada, other than a corporation controlled by citizens or subjects of a country other than Canada, or

(II) a corporation of which at least 3/4 of the shares having full voting rights under all circumstances, and shares having a fair market value in the aggregate of at least 3/4 of the fair market value of all of the issued shares of the corporation, are beneficially owned by Canadian citizens or by public corporations a class or classes of shares of the capital stock of which are listed on a prescribed stock exchange in Canada, other than a public corporation

controlled by citizens or subjects of a country other than Canada,

and for the purposes of subclause (II), where shares of a class of the capital stock of a corporation are owned, or deemed by this paragraph to be owned, at any time by another corporation (in this paragraph referred to as the "holding corporation"), other than a public corporation a class or classes of shares of the capital stock of which are listed on a prescribed stock exchange in Canada, each shareholder of the holding corporation shall be deemed to own at that time that proportion of the number of such shares of that class that

(III) the fair market value of the shares of the capital stock of the holding corporation owned at that time by the shareholder

is of

(IV) the fair market value of all the issued shares of the capital stock of the holding corporation outstanding at that time,

and where at any time shares of a class of the capital stock of a corporation are owned, or are deemed by this paragraph to be owned, by a partnership, each member of the partnership shall be deemed to own at that time the least proportion of the number of such shares of that class that

(V) the member's share of the income or loss of the partnership from any source for its fiscal period that includes that time

is of

(VI) the income or loss of the partnership from that source for its fiscal period that includes that time,

and for this purpose, where the income and loss of a partnership from any source for a fiscal



period are nil, the partnership shall be deemed to have had income from that source for that period in the amount of \$1,000,000;"

(3) Subsections (1) and (2) are applicable with respect to rights referred to in paragraph 19(5)(b) of the said Act that are acquired after Announcement Date (and rights acquired after 1988 where the acquiror of the right so elects by notifying the Minister of National Revenue in writing before 1992) and, for this purpose where an individual who is a citizen or subject of a country other than Canada or a corporation controlled by such an individual or individuals has at any time after Announcement Date acquired, in an arm's length transaction,

(a) more than 1/4 of the shares of a particular corporation that have full voting rights under all circumstances, or

(b) shares of a particular corporation having a fair market value in aggregate of more than 1/4 of the fair market value of all of the issued shares of the particular corporation,

the particular corporation and any corporation controlled by the particular corporation shall be deemed to have acquired at that time any right referred to in paragraph 19(5)(b) of the said Act that is owned by the particular corporation or controlled corporation at that time.

15. (1) Subparagraph 20(1)(c)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) borrowed money used to acquire an interest in an annuity contract to which section 12.2 applies (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest) except that, where annuity payments have commenced under the contract in a preceding taxation year, the amount of interest paid or payable in the year shall not be deducted to the extent that it exceeds the amount included under section 12.2 in computing the taxpayer's income for the year in respect of the taxpayer's interest in the contract,"

(2) Subsection 20(1) of the said Act is further amended by adding thereto, immediately after paragraph (e.1) thereof, the following paragraph:

Premiums on life insurance used as collateral

"(e.2) such portion of the lesser of

(i) the premiums payable by the taxpayer under a life insurance policy (other than an annuity contract) in respect of the year, where

(A) an interest in the policy is assigned to a corporation (in this paragraph referred to as the "lender") whose principal business is the lending of money or the purchasing of debt obligations, or a combination thereof, in the course of a borrowing from the lender (in this paragraph referred to as the "borrowing"),

(B) the interest payable in respect of the borrowing would, but for subsections 18(2) and (3.1) and section 21, be deductible in computing the taxpayer's income for the year, and

(C) the assignment referred to in clause (A) is required by the lender as collateral for the borrowing, and

(ii) the net cost of pure insurance in respect of the year, as determined in accordance with the regulations, in respect of the interest in the policy referred to in clause (i)(A),

as may reasonably be considered to relate to the amount owing from time to time during the year by the taxpayer to the lender under the borrowing;"

(3) Paragraph 20(1)(mm) of the said Act is amended by adding thereto the following:

"except that where the year is less than 51 weeks, the amount that may be claimed under this paragraph by the taxpayer for the year shall not exceed the greater of

(v) that proportion of the maximum amount that may otherwise be claimed under this paragraph by the taxpayer for the year that the number of days in the year is of 365, and

(vi) the amount of such outlay or expense not referred to in any of subparagraphs (i) to (iv) that was made or incurred by the taxpayer in the year."

(4) Subsection 20(1) of the said Act is further amended by adding the word "and" at the end of paragraph (oo) thereof and by adding thereto the following:

Idem

"(pp) any amount under a salary deferral arrangement in respect of another person (other than an arrangement established primarily for the benefit of one or more non-resident employees in respect of services to be rendered outside Canada) to the extent that it was

(i) included under paragraph 6(1)(i) in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year, and

(ii) in respect of services rendered to the taxpayer."

(5) Subsection 20(2.2) of the said Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) that is an annuity contract all of the insurer's reserves for which vary in amount depending on the fair market value of a specified group of properties."

(6) Subsection 20(4) of the said Act is repealed and the following substituted therefor:

Bad debts from dispositions of depreciable property

"(4) Where an amount that is owing to a taxpayer as or on account of the proceeds of disposition of depreciable property (other than a timber resource property or a passenger vehicle having a cost to the taxpayer in excess of \$20,000 or such other amount as may be prescribed) of the taxpayer of a prescribed class is established by the taxpayer to have become a bad debt in a taxation year, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount so owing to the taxpayer; and

(b) the amount, if any, by which the capital cost to the taxpayer of that property exceeds the total of the amounts, if any, realized by the taxpayer on account of the proceeds of disposition."

(7) All that portion of subsection 20(16) of the said Act following paragraph (d) thereof is repealed.

(8) All that portion of subsection 20(20) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

Life insurance policy



"(20) Where in a taxation year a taxpayer has disposed of an interest in a life insurance policy that is not an annuity contract (otherwise than as a consequence of a death) or of an interest in an annuity contract (other than a prescribed annuity contract), there may be deducted in computing the taxpayer's income for the year an amount equal to the lesser of

(a) the total of all amounts each of which is an amount in respect of the interest in the policy that was included by reason of section 12.2 or paragraph 56(1)(d.1) in computing the taxpayer's income for the year or a preceding taxation year; and"

(9) Paragraph 20(21)(b) of the said Act is repealed and the following substituted therefor:

"(b) the portion of an amount that was received or became receivable by the taxpayer at or before that time as may reasonably be considered to be in respect of an amount described in paragraph (a) and that was not repaid by the taxpayer to the issuer of the debt obligation pursuant to an adjustment in respect of interest received before that time by the taxpayer; or"

(10) Section 20 of the said Act is further amended by adding thereto the following subsections:

Deduction before available for use

"(28) In computing a taxpayer's income from a business or property for a taxation year ending before the time at which a building or a part thereof acquired after 1989 by the taxpayer has become available for use by the taxpayer, there may be deducted an amount not exceeding the amount by which the lesser of

(a) the amount that would have been deductible under paragraph (1)(a) for the year in respect of the building if subsection 13(26) were not applicable, and

(b) the taxpayer's income for the year from renting the building, computed without reference to this subsection and before deducting any amount in respect of the building under paragraph (1)(a)

exceeds

(c) the amount deductible under paragraph (1)(a) for the year in respect of the building, computed without reference to this subsection

and any amount so deducted shall be deemed to be an amount deducted by the taxpayer by reason of paragraph (1)(a) in computing the taxpayer's income for the year.

Deduction before available for use

(29) Where, by reason of subsection 18(3.1) a deduction would, but for this subsection, not be allowed to a taxpayer in respect of an outlay or expense in respect of a building, or part thereof, and the outlay or expense would, but for that subsection and without reference to this subsection, be deductible in computing the taxpayer's income for a taxation year, there may be deducted in respect of such outlays and expenses in computing the taxpayer's income for the year an amount equal to the lesser of

(a) the total of all amounts each of which is such an outlay or expense; and

(b) the taxpayer's income for the year from renting the building or the part thereof computed without reference to this subsection and subsection (28)."

(11) Subsection (1) is applicable with respect to contracts last acquired after 1989.

(12) Subsection (2) is applicable with respect to premiums payable after 1989.

(13) Subsections (3) and (7) are applicable to taxation years commencing after Announcement Date.

(14) Subsections (4) and (9) are applicable to the 1986 and subsequent taxation years.

(15) Subsection (5) is applicable to the 1987 and subsequent taxation years.

(16) Subsection (6) is applicable with respect to amounts that are established after Announcement Date to have become bad debts.

(17) Subsection (8) is applicable with respect to dispositions occurring after 1989.

(18) Subsection 20(28) of the said Act, as enacted by subsection (10), is applicable to taxation years ending after 1989.

(19) Subsection 20(29) of the said Act, as enacted by subsection (10), is applicable in respect of outlays and expenses made or incurred after 1989.

16. (1) Paragraph 21(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) in computing the taxpayer's income for the year and for such of the 3 immediately preceding taxation years as the taxpayer had, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the taxpayer's election that, but for an election under this subsection in respect thereof, would have been deductible in computing the taxpayer's income (other than exempt income) for any such year in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property; and"

(2) Paragraph 21(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) in computing the taxpayer's income for the year and for such of the 3 immediately preceding taxation years as the taxpayer had, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the taxpayer's election that, but for an election under this subsection in respect thereof, would have been deductible in computing the taxpayer's income (other than exempt income) for any such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be; and"

(3) All that portion of subsection 21(3) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"if an election under this subsection is made in the taxpayer's return of income under this Part for the particular year, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the election that, but for an election under this subsection in respect thereof, would have been deductible in computing the taxpayer's income (other than exempt income) for the particular year in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by the taxpayer, and the amount or part of the amount, as the case may be, shall be added to the capital cost to the taxpayer of the depreciable property."

(4) All that portion of subsection 21(4) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"if an election under this subsection is made in the taxpayer's return of income under this Part for the particular year, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the election that, but for an election under this subsection in



respect thereof, would have been deductible in computing the taxpayer's income (other than exempt income) for the particular year in respect of the borrowed money used for the exploration, development or acquisition of property, and the amount or part of the amount, as the case may be, shall be deemed to be Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, incurred by the taxpayer in the particular year."

(5) Subsections (1) to (4) are applicable after 1987.

17. (1) Section 24 of the said Act is repealed and the following substituted therefor:

Ceasing to carry on business

"24.(1) Notwithstanding paragraph 18(1)(b), where at any time after a taxpayer ceases to carry on a business the taxpayer no longer owns any property that was eligible capital property in respect of the business and that has value, in computing the taxpayer's income for taxation years ending after that time,

(a) there shall be deducted the amount of the taxpayer's cumulative eligible capital in respect of the business at that time for the first such taxation year;

(b) no amount is deductible by reason of paragraph 20(1)(b) in respect of the business;

(c) for the purposes of clause 14(5)(a)(v)(A), the amount deducted by the taxpayer by reason of paragraph (a) shall be deemed to be an amount deducted under paragraph 20(1)(b) in computing the taxpayer's income from the business for the taxation year that included that time; and

(d) for the purposes of subsection 14(1), section 14 shall be read without reference to subsection (4) thereof.

Business carried on by spouse or controlled corporation

(2) Notwithstanding subsection (1), where at any time an individual ceases to carry on a business and thereafter the individual's spouse, or a corporation controlled directly or indirectly in any manner whatever by the individual, carries on the business and acquires all of the property that was eligible capital property in respect of the business owned by the individual before that time and that had value at that time,

(a) in computing the individual's income for the individual's first taxation year ending after that time, subsection (1) shall be read without reference to paragraph (a) thereof and the reference in paragraph (c) to "the amount deducted by the taxpayer by reason of paragraph (a)" shall be read as a reference to "an amount equal to the taxpayer's cumulative eligible capital in respect of property immediately before that time";

(b) in computing the cumulative eligible capital of the spouse or the corporation, as the case may be, in respect of the business, the spouse or corporation shall be deemed to have acquired an eligible capital property and to have made an eligible capital expenditure at that time at a cost equal to 4/3 of the aggregate of

(i) the cumulative eligible capital of the taxpayer in respect of the business immediately before that time, and  
(ii) the amount, if any, determined under subparagraph 14(5)(a)(v) in respect of the business of the individual at that time; and

(c) for the purposes of determining the cumulative eligible capital in respect of the business of the spouse or corporation after that time, an amount equal to the amount determined under subparagraph (b)(ii) shall be added to the amount otherwise determined in respect thereof under clause 14(5)(a)(v)(A)."

(2) Subsection (1) is applicable after Announcement Date.

18. (1) Subsection 28(1) of the said Act is amended by adding thereto, after paragraph (g) thereof, the following:

"except that paragraphs (b) and (c) shall not apply in computing the income of the taxpayer for the taxation year in which the taxpayer has died."

(2) Subsection 28(1.1) of the said Act is repealed.

(3) Subsection 28(1.2) of the said Act is repealed and the following substituted therefor:

#### Inventory

"(1.2) For the purposes of paragraph (1)(c) and notwithstanding section 10, inventory of a taxpayer shall be valued at any time at the lesser of the total amount paid by the taxpayer at or before that time to acquire it (in this section referred to as its "cash cost") and its fair market value, except that an animal (in this section referred to as a "specified animal") that is a horse or, where the taxpayer has so elected in respect thereof for

the taxation year that includes that time or for any preceding taxation year, is a bovine animal registered under the *Animal Pedigree Act*, shall be valued,

(a) at any time in the taxation year in which it is acquired, at such amount as is designated by the taxpayer not exceeding its cash cost to the taxpayer and not less than 70% of its cash cost to the taxpayer; and

(b) at any time in any subsequent taxation year, at such amount as is designated by the taxpayer not exceeding its cash cost to the taxpayer and not less than 70% of the total of

(i) its value determined under this subsection at the end of the preceding taxation year, and

(ii) the total amount paid on account of the purchase price of the animal during the year."

(4) Subsection 28(4) of the said Act is repealed and the following substituted therefor:

Non-resident

"(4) Notwithstanding subsections (1) and (5), where at the end of a taxation year a taxpayer who carried on a business the income from which was computed in accordance with the cash method is not resident in Canada and does not carry on that business in Canada, an amount equal to the total of all amounts each of which is the fair market value of an amount outstanding during the year as or on account of a debt owing to the taxpayer that arose in the course of carrying on the business and that would have been included in computing the taxpayer's income for the year if the amount had been received by the taxpayer in the year, shall (to the extent that the amount was not otherwise included in computing the taxpayer's income for the year or a preceding taxation year) be included in computing the taxpayer's income from the business

(a) for the year, if section 114 is not applicable; or

(b) if section 114 is applicable, for the period or periods referred to in paragraph 114(a) in respect of the year.

Idem

(4.1) Notwithstanding subsection (1), where at any time in a taxation year



(a) a taxpayer who carried on a business the income from which is computed in accordance with the cash method is not resident in Canada, and

(b) a property that was inventory owned by the taxpayer in connection with the business is not used in connection with a business carried on in Canada by the taxpayer (other than inventory sold in the course of carrying on the business),

the taxpayer shall (except where this subsection applied in respect of the property at an earlier time) be deemed to have disposed of the property at that time in the course of carrying on the business for proceeds of disposition equal to its fair market value at that time and an amount equal to those proceeds shall be included in computing the taxpayer's income from the business

(c) for the year, if section 114 is not applicable, or

(d) if section 114 is applicable, for the period or periods in the year referred to in paragraph 114(a)."

(5) Subsections (1) to (3) are applicable to fiscal periods commencing after 1988.

(6) Subsection 28(4) of the said Act, as enacted by subsection (4), is applicable with respect to taxpayers who cease to reside in Canada or who cease to carry on business in Canada after Announcement Date.

(7) Subsection 28(4.1) of the said Act, as enacted by subsection (4), is applicable with respect to taxpayers who cease to reside in Canada after announcement date and with respect to property that ceases after Announcement Date to be used in connection with a business carried on in Canada.

19. (1) Subsection 32(1) of the said Act is repealed and the following substituted therefor:

Insurance agents and brokers

"32.(1) In computing the income of a taxpayer for a taxation year from the taxpayer's business as an insurance agent or broker, no deduction may be claimed under paragraph 20(1)(m) for the year in respect of unearned commissions from that business but in computing the taxpayer's income for the year from that business there may be deducted, as a reserve in respect of such commissions, an amount equal to the lesser of

(a) the total of all amounts each of which is that proportion of an amount that has been included in computing the taxpayer's

income for the year or a previous year as a commission in respect of an insurance contract (other than a life insurance contract) that

- (i) the number of days in the period provided for in the insurance contract that are after the end of the taxation year

is of

- (ii) the number of days in that period; and

(b) the total of all amounts each of which is the amount that would, but for this subsection, be deductible under paragraph 20(1)(m) for the year in respect of a commission referred to in paragraph (a)."

(2) Subsection (1) is applicable to taxation years ending after Announcement Date.

20. (1) Subparagraph (a)(iii) of the definition "eligible deposit" in subsection 33.1(1) of the said Act is repealed and the following substituted therefor:

"(iii) before the deposit was recorded in the books of account of the international banking centre business, the taxpayer made reasonable enquiries and had no reasonable cause to believe that any portion of the amount was deposited on behalf of, for the benefit of or as a condition of any transaction with a person (other than a non-resident person with whom the taxpayer was dealing at arm's length), or"

(2) Subsection 33.1(7) of the said Act is repealed and the following substituted therefor:

#### Election restriction

"(7) A taxpayer may elect, as provided in subsection (6), only in respect of eligible deposits recorded in the books of account of an international banking centre business at the end of a day to the extent that the total of such deposits exceeds 96% of the total of all amounts each of which is the amount outstanding on account of the principal amount of an eligible loan recorded in the books of account of the business at the end of the day."

(3) Subsection (1) is applicable to deposits first recorded in the books of account of an international banking centre business after Announcement Date.

(4) Subsection (2) is applicable to taxation years commencing after December 17, 1987.

21. (1) Paragraph 37(1)(a) of the said Act is amended by striking out the word "or" at the end of subparagraph (i) thereof, by striking out the word "and" at the end of subparagraph (ii) thereof and substituting the word "or" therefor and by adding thereto the following subparagraph:

"(iii) where the taxpayer is a corporation, by payments to a corporation resident in Canada and exempt from tax under paragraph 149(1)(j), for scientific research and experimental development that is basic research or applied research carried on in Canada

(A) the primary purpose of which is the use of results therefrom by the taxpayer in conjunction with other scientific research and experimental development activities undertaken or to be undertaken by or on behalf of the taxpayer that relate to a business of the taxpayer, and

(B) that has the technological potential for application to other businesses of a type unrelated to that carried on by the taxpayer, and"

(2) Section 37 of the said Act is further amended by adding thereto, immediately after subsection (1.1) thereof, the following subsection:

Deemed time of capital expenditure

"(1.2) For the purposes of paragraph (1)(b), an expenditure made by a taxpayer in respect of property shall be deemed not to have been made by the taxpayer before the property is considered to have become available for use by the taxpayer."

(3) Subsection (1) is applicable with respect to payments made after December 15, 1987.

(4) Subsection (2) is applicable in respect of expenditures made by a taxpayer after 1989 other than property acquired

(a) from a person with whom the taxpayer was not dealing at arm's length (otherwise than by reason of a right referred to in paragraph 251(5)(b) of the said Act) at the time the property was acquired, or

(b) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization,



subsection 55(2) of the said Act would not be applicable to the dividend by reason of the application of paragraph 55(3)(b) of the said Act,

where the property was depreciable property of the person from whom it was acquired (or would, but for section 37 of the said Act, be depreciable property of the person from whom it was acquired) and was owned by that person before 1990.

22. (1) Subparagraph 39(1)(a)(i.1) of the said Act is repealed and the following substituted therefor:

"(i.1) an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act* and that has been disposed of,

(A) in the case of a gift to which subsection 118.1(5) applies, within the period ending 36 months after the death of the taxpayer or, where written application therefor has been made to the Minister by the taxpayer's legal representative within that period, within such longer period as the Minister considers reasonable in the circumstances, and

(B) in any other case, at any time,

to an institution or a public authority in Canada that was, at the time of the disposition, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object,"

(2) Subparagraph 39(1)(c)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) a debt owing to the taxpayer by a Canadian-controlled private corporation (other than, where the taxpayer is a corporation, a debt owed to it by a corporation with which it does not deal at arm's length) that is

(A) a small business corporation,

(B) a bankrupt (within the meaning assigned by subsection 128(3)) that was a small business corporation at the time it last became a bankrupt, or

(C) a corporation referred to in section 6 of the *Winding-up Act* that was insolvent (within the meaning of that Act) and was a small business corporation at the time a winding-up order under that Act was made in respect of the corporation"

(3) Section 39 of the said Act is further amended by adding thereto, immediately after subsection (4) thereof, the following subsection:

Members of partnerships

"(4.1) For the purposes of determining the income of a taxpayer who is a member of a partnership, subsections (4) and (5) shall apply as if

(a) every Canadian security owned by the partnership were owned by the taxpayer; and

(b) every Canadian security disposed of by the partnership in a fiscal period of the partnership were disposed of by the taxpayer at the end of that fiscal period."

(4) Section 39 of the said Act is further amended by adding thereto the following subsection:

Guarantees

"(12) For the purposes of paragraph 39(1)(c), where

(a) an amount has been paid by a taxpayer in respect of a debt of a corporation pursuant to an arrangement under which the taxpayer guaranteed the debt,

(b) the amount was paid to a person with whom the taxpayer was dealing at arm's length, and

(c) the corporation was a small business corporation at the time the debt was incurred and at the time an amount first became payable by the taxpayer under the arrangement in respect of a debt of the corporation,

that part of the amount that is owing to the taxpayer by the corporation shall be deemed to be a debt owing to the taxpayer by a small business corporation."

(5) Subsection (1) is applicable with respect to dispositions occurring after December 11, 1988.

(6) Subsection (2) is applicable to the 1987 and subsequent taxation years.

(7) Subsection (3) is applicable with respect to dispositions occurring after Announcement Date.

(8) Subsection (4) is applicable with respect to amounts paid after 1985.

23. (1) All that portion of subsection 40(3) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"the following rules apply:

(c) subject to paragraph 93(1)(b), the amount of the excess shall be deemed to be a gain of the taxpayer for the year from a disposition at that time of the property,

(d) for the purposes of sections 93 and 110.6, the property shall be deemed to have been disposed of by the taxpayer in the year, and

(e) for the purposes of section 93, the amount of the excess shall be deemed to be proceeds of disposition of the property to the taxpayer."

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years.

24. (1) Subparagraph 44(1)(e)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) subject to subsection (1.1), such amount as the taxpayer claims,

(A) in the case of an individual (other than a trust) in prescribed form filed with the taxpayer's return of income under this Part for the particular year, and

(B) in any other case, in the taxpayer's return of income under this Part for the particular year,

as a deduction, not exceeding the lesser of

(C) a reasonable amount as a reserve in respect of such of the proceeds of disposition of the former property that are not due to the taxpayer until after the end of the particular year as may



reasonably be regarded as a portion of the amount determined under subparagraph (i) in respect of the property, and

(D) an amount equal to the product obtained when 1/5 of the amount determined under subparagraph (i) in respect of the property is multiplied by the amount, if any, by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property, and"

(2) Paragraph 44(5)(b) of the said Act is repealed and the following substituted therefor:

"(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the particular capital property was acquired for the purpose of gaining or producing income from that or a similar business or for the use by that related person for such a purpose; and"

(3) Paragraph 44(5)(c) of the said Act is repealed and the following substituted therefor:

"(c) the particular capital property was taxable Canadian property or would have been taxable Canadian property if the taxpayer were non-resident throughout the year in which the particular capital property was acquired and the property were used in a business carried on by the taxpayer."

(4) Subsection (1) is applicable to the 1990 and subsequent taxation years.

(5) Subsection (2) is applicable with respect to dispositions of former properties occurring after Announcement Date.

(6) Subsection (3) is applicable with respect to property acquired as a replacement for a former property disposed of after April 2, 1990, other than a former property disposed of

(a) pursuant to an agreement in writing entered into before April 3, 1990; or

(b) pursuant to a written notice of an intention to take the property under statutory authority given before April 3, 1990 or for the sale price of the property sold to a person by whom such a notice was given before April 3, 1990.

25. (1) Subparagraph 45(1)(c)(ii) of the said Act is repealed and the following substituted therefor:

"(i) if the use regularly made of the property for those other purposes has increased, the taxpayer shall be deemed to have

(A) disposed of the property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the taxpayer of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in clause (A), and

(ii) if the use regularly made of the property for those other purposes has decreased, the taxpayer shall be deemed to have

(A) disposed of the property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by the taxpayer of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in clause (A)."

(2) Subsection (1) is applicable to the 1972 and subsequent taxation years.

26. (1) Subsection 49(1) of the said Act is repealed and the following substituted therefor:

#### Granting of options

"49.(1) Subject to subsections (3) and (3.1), for the purpose of this subdivision, the granting of an option, other than

(a) an option to acquire or to dispose of a principal residence,

(b) an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it, or

(c) an option granted by a trust to acquire units of the trust to be issued by the trust,

is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil."

(2) Section 49 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Idem

"(2.1) Where at any time an option described in paragraph (1)(c) expires,

(a) the trust shall be deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option; and

(b) the adjusted cost base to the trust of that capital property immediately before that time shall be deemed to be nil."

(3) Paragraph 49(3)(b) of the said Act is repealed and the following substituted therefor:

"(b) in computing the cost to the purchaser of the property, the adjusted cost base to the purchaser of the option, except where paragraph 53(1)(j) applied in respect of the acquisition of the property by the purchaser."

(4) All that portion of subsection 49(5) of the said Act preceding paragraph (c) thereof is repealed and the following substituted therefor:

Idem

"(5) Where a taxpayer has granted an option (in this subsection referred to as the "original option") to which subsection (1), (2) or (2.1) applies, and has granted one or more extensions or renewals of that original option,

(a) for the purposes of subsections (1), (2) and (2.1), the granting of each extension or renewal shall be deemed to be the granting of an option at the time the extension or renewal is granted;



(b) for the purposes of subsections (2) to (4) and clause 54(c)(ii)(D), the original option and each extension or renewal thereof shall be deemed to be the same option; and"

(5) Subsections (1) and (2) are applicable with respect to options granted after 1989.

(6) Subsection (3) is applicable after Announcement Date.

(7) Subsection (4) is applicable with respect to options granted, extended or renewed after 1989.

27. (1) All that portion of subsection 50(1) of the said Act following subparagraph (b)(ii) thereof is repealed and the following substituted therefor:

"(iii) at the end of the year, the corporation is insolvent and neither the corporation nor a corporation controlled by it carries on business, and

(A) at the end of the year, the fair market value of the share is nil and it is reasonable to expect that the corporation will be dissolved or wound up and will not commence to carry on business, and

(B) in the taxpayer's return of income under this Part for the year the taxpayer elects to have this subsection apply,

the taxpayer shall be deemed to have disposed of the debt or the share, as the case may be, at the end of the year for proceeds equal to nil and to have reacquired it immediately thereafter at a cost equal to nil."

(2) Section 50 of the said Act is further amended by adding thereto, immediately following subsection (1) thereof, the following subsection:

Idem

"(1.1) Where,

(a) a taxpayer was deemed by reason of subparagraph (1)(b)(iii) to have disposed of a share of the capital stock of a corporation at the end of a taxation year, and

(b) the taxpayer or a person with whom the taxpayer was not dealing at arm's length owned the share at the earliest time, during the 24 month period immediately following the disposition, that the corporation or a corporation controlled by it carries on business,

the taxpayer or the person, as the case may be, shall be deemed to have disposed of the share at that earliest time for proceeds of disposition equal to its adjusted cost base to the taxpayer determined immediately before the time of the disposition referred to in paragraph (a) and to have reacquired it immediately after that earliest time at a cost equal to those proceeds."

(3) Subsection (1) is applicable

(a) to the 1990 and subsequent taxation years; and

(b) where the taxpayer so elects in respect of the shares of the capital stock of a corporation by notifying the Minister of National Revenue in writing before 1992, notwithstanding subsections 152(4) to (5) of the said Act, to the taxpayer's 1985 to 1989 taxation years, in which case the taxpayer shall be deemed to have elected, in the taxpayer's returns of income under this Part for those years, to have subsection 50(1) of the said Act apply, except that subsection (1) is not applicable in respect of any such taxation year of the taxpayer where the corporation or a corporation controlled by it carries on business during the 24 month period immediately following the end of the year.

(4) Subsection (2) is applicable to the 1990 and subsequent taxation years.

28. (1) Paragraph 52(3)(a) of the said Act is repealed and the following substituted therefor:

"(a) where the stock dividend is a dividend, the amount of the stock dividend;

(a.1) where the stock dividend is not a dividend, nil; and"

(2) Subsection (1) is applicable to stock dividends paid after May 23, 1985.

29. (1) Subparagraph 53(1)(e)(ix) of the said Act is repealed and the following substituted therefor:

"(ix) the amount, if any, by which

(A) the taxpayer's share of the amount of any assistance or benefit that the partnership has received or has become entitled to receive after 1971 and before that time from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from

royalty or tax, investment allowance or any other form of assistance or benefit, in respect of or related to a Canadian resource property or an exploration or development expense incurred in Canada

exceeds

(B) such part, if any, of the amount included in clause (A) in respect of the interest as has been repaid before that time by the taxpayer pursuant to a legal obligation to repay all or any part of that amount,"

(2) Paragraph 53(1)(f) of the said Act is repealed and the following substituted therefor:

"(f) where the property is substituted property of the taxpayer within the meaning of paragraph 54(i), the amount, if any, by which

(i) the amount of the loss that was, by reason of the acquisition by the taxpayer of the property, a superficial loss of any taxpayer from a disposition of a property

exceeds

(ii) where the property disposed of was a share of the capital stock of a corporation, the amount that would but for paragraph 40(2)(g) be deducted under subsection 112(3), (3.1) or (3.2) in computing the loss of any taxpayer in respect of the disposition of the share;"

(3) Subparagraph 53(1)(h)(i) of the said Act is repealed and the following substituted therefor:

"(i) interest on debt relating to the acquisition of land within the meaning assigned by paragraph 18(3)(b), or"

(4) All that portion of paragraph 53(1)(h) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"to the extent that that amount was not deductible by reason of subsection 18(2) in computing the taxpayer's income from the land or from a business for any taxation year commencing before that time nor in computing the income of another person in respect of whom the taxpayer was a person, corporation or partnership described in clause 18(3)(b)(ii)(A), (B) or (C), and was not



included in or added to the cost to that other person of any property otherwise than by reason of paragraph (d.3) or subparagraph (e)(xi);"

(5) Subparagraph 53(2)(a)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) any amount received by the taxpayer after 1971 and before that time on a reduction of the paid-up capital of the corporation in respect of the share, except to the extent that the amount is deemed by subsection 84(4) or (4.1) to be a dividend received by the taxpayer,"

(6) Subsection (1) is applicable for the purposes of computing the adjusted cost base of an interest in a partnership after January 1990.

(7) Subsection (2) is applicable in computing the adjusted cost base of property after Announcement Date.

(8) Subsections (3) and (4) are applicable to the 1988 and subsequent taxation years.

(9) Subsection (5) is applicable for the purpose of computing the adjusted cost base of any share after 1989.

30. (1) Subparagraph 54(i)(i) of the said Act is repealed and the following substituted therefor:

"(i) the same or identical property (in this paragraph referred to as "substituted property") was acquired, during the period beginning 30 days before the disposition and ending 30 days after the disposition, by the taxpayer, the taxpayer's spouse or a corporation controlled, directly or indirectly in any manner whatever, by the taxpayer, and"

(2) Subsection (1) is applicable to taxation years commencing after 1988.

31. (1) Subparagraph 56(1)(a)(i) of the said Act is amended by striking out the word "and" at the end of clause (B) thereof, by adding the word "and" at the end of clause (C) thereof and by adding thereto, immediately after clause (C) thereof, the following clause:

"(C.1) the amount of any payment out of or under a foreign retirement arrangement established under the laws of a country, except to the extent that the amount would not, if the taxpayer were resident in the country, be subject to income taxation in the country,"

(2) Subparagraph 56(1)(a)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) a benefit under the *Unemployment Insurance Act*, other than a payment relating to the cost of a course or program designed to facilitate the re-entry into the labour force of a claimant under that Act,"

(3) Paragraph 56(1)(a) of the said Act is further amended by striking out the word "or" at the end of subparagraph (v) thereof, by adding the word "or" at the end of subparagraph (vi) thereof and by adding thereto the following subparagraph:

"(vii) an income assistance payment made pursuant to an agreement under section 5 of the *Department of Labour Act*;"

(4) Paragraph 56(1)(d) of the said Act is amended by adding the word "or" at the end of subparagraph (i) thereof and by repealing subparagraphs (ii) and (iii) thereof and substituting the following therefor:

"(ii) with respect to an interest in an annuity contract to which subsection 12.2(1) applies (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest);"

(5) All that portion of paragraph 56(1)(n) of the said Act following subparagraph (i) thereof is repealed and the following substituted therefor:

"exceeds the greater of \$500 and the aggregate of all amounts each of which is the lesser of

(ii) the amount included under subparagraph (i) for the year in respect of a scholarship, fellowship, bursary or prize that is to be used by the taxpayer in the production of a literary, dramatic, musical or artistic work, and

(iii) the aggregate of all amounts each of which is an expense incurred by the taxpayer in the year for the purpose of fulfilling the conditions under which the amount described in subparagraph (ii) was received, other than

(A) personal or living expenses of the taxpayer (except expenses in respect of travel, meals and lodging incurred by the taxpayer in the course of fulfilling such conditions and while absent from

the taxpayer's usual place of residence for the period to which the scholarship, fellowship, bursary or prize, as the case may be, relates),

(B) expenses for which the taxpayer has been reimbursed, and

(C) expenses that are otherwise deductible in computing the taxpayer's income;"

(6) Paragraph 56(1)(u) of the said Act is repealed and the following substituted therefor:

Social assistance payments

"(u) a social assistance payment made on the basis of a means, needs or income test and received in the year by

(i) the taxpayer, other than a married taxpayer who resided with the taxpayer's spouse at the time the payment was received and whose income for the year is less than the spouse's income for the year, or

(ii) the spouse of the taxpayer, if the taxpayer resided with the spouse at the time the payment was received and if the spouse's income for the year is less than the taxpayer's income for the year,

except to the extent that the payment is otherwise required to be included in computing the income for a taxation year from a business or property of the taxpayer or the taxpayer's spouse;"

(7) Subsection 56(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (y) thereof, by adding the word "and" at the end of paragraph (z) thereof and by adding thereto the following paragraph:

Value of benefits

"(aa) the value of benefits received or enjoyed by any person in the year in respect of workshops, seminars, training programs and similar development programs by reason of the taxpayer's membership in a registered national arts service organization."

(8) Subsections 56(4.1) to (4.3) of the said Act are repealed and the following substituted therefor:

Interest free or low interest debt



"(4.1) Where

(a) a particular individual has, directly or indirectly by means of a trust or by any means whatever, received a loan from or become indebted to another individual with whom the particular individual was not dealing at arm's length, and

(b) it may reasonably be considered that one of the main reasons for making the loan or incurring the indebtedness was to reduce or avoid tax by causing income from

(i) the loaned property

(ii) property that the loan or indebtedness enabled or assisted the particular individual to acquire, or

(iii) property substituted for property referred to in subparagraph (i) or (ii)

to be included in the income of the particular individual,

any income of the particular individual for a taxation year from the property that relates to the period or periods in the year throughout which the other individual was resident in Canada and was not dealing at arm's length with the particular individual shall be deemed to be income of the other individual for that year and not of the particular individual except to the extent that section 74.1 is otherwise applicable.

Exception

(4.2) Notwithstanding any other provision of this Act, subsection (4.1) does not apply to any income derived in a taxation year where

(a) interest was charged on the loan or indebtedness at a rate equal to or greater than the lesser of

(i) the prescribed rate of interest in effect at the time the loan was made or the indebtedness arose, and

(ii) the rate that would, having regard to all the circumstances, have been agreed on, at the time the loan was made or the indebtedness arose, between parties dealing with each other at arm's length;

(b) the amount of interest that was payable in respect of the particular year in respect of the loan or indebtedness was paid not later than 30 days after the end of the particular year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan or indebtedness was paid not later than 30 days after the end of each such taxation year.

#### Repayment of existing indebtedness

(4.3) For the purposes of subsection (4.1), where at any time a particular property is used to repay, in whole or in part, a loan or indebtedness that enabled or assisted an individual to acquire another property, there shall be included in computing the income from the particular property that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the amount so repaid is of the cost to the individual of the other property, but for greater certainty nothing in this subsection shall affect the application of subsection (4.1) to any income or loss derived from the other property or from property substituted therefor."

(9) Paragraph 56(7)(a) of the said Act is repealed and the following substituted therefor:

"(a) an amount is allowed under subsection 118(1) by reason of paragraph (b) thereof in computing an individual's tax payable under this Part for a taxation year in respect of a person referred to in subsection (5), the individual shall be deemed to be the only individual to have supported the person in each month of the year and any allowance referred to in subsection (5) that is paid in respect of the person for each such month shall be deemed to have been received by the individual; and"

(10) Subsection 56(9) of the said Act is repealed and the following substituted therefor:

#### Meaning of "income for the year"

"(9) For the purposes of paragraphs (1)(s) and (u) and subsection (6), "income for the year" of a person means the amount that would, but for those paragraphs, subsection (5), paragraphs 60(v.1) and (w) and section 63, be the income of that person for the year."

(11) Subsection (1) is applicable with respect to payments received after Announcement Date.

(12) Subsections (2) and (9) are applicable to the 1988 and subsequent taxation years.

(13) Subsection (3) is applicable with respect to payments received after September 14, 1989.

(14) Subsection (4) is applicable with respect to contracts last acquired after 1989.

(15) Subsection (5) is applicable to the 1987 and subsequent taxation years.

(16) Subsection (6) is applicable to the 1982 and subsequent taxation years.

(17) Subsection (7) is applicable after Announcement Date.

(18) Subsection (8) is applicable with respect to any income relating to periods commencing on or after Announcement Date.

(19) Subsection (10) is applicable to the 1989 and subsequent taxation years.

32. (1) All that portion of section 59.1 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Involuntary disposition of resource property

"59.1 Where in a particular taxation year an amount is deemed by subsection 44(2) to have become receivable by a taxpayer as proceeds of disposition described in subparagraph 54(h)(iv) of any Canadian resource property and the taxpayer has elected, in the taxpayer's return of income under this Part for the year, to have this section apply in respect of such proceeds of disposition,"

(2) Subsection (1) is applicable with respect to amounts deemed to have become receivable in taxation years commencing after 1984.

33. (1) Subparagraph 60(j)(ii) of the English version of the said Act is repealed and the following substituted therefor:

"(ii) an eligible amount in respect of the taxpayer for the year pursuant to section 60.01, subsection 104(27) or (27.1) or paragraph 147(10.2)(d),"

(2) All that portion of paragraph 60(j.1) of the said Act following clause (ii)(B) thereof and preceding clause (iii)(A) thereof is repealed and the following substituted therefor:

"exceeds the aggregate of



(C) all amounts deducted under this paragraph in respect of amounts paid before the year in respect of the retiree

(I) by the employer or a person related to the employer, or

(II) under a retirement compensation arrangement to which the employer or a person related to the employer has contributed,

(C.1) all other amounts deducted for the year under this paragraph in respect of amounts paid in the year in respect of the retiree

(I) by a person related to the employer, or

(II) under a retirement compensation arrangement to which a person related to the employer has contributed, and

(D) all amounts deducted under paragraph (t) in computing the retiree's income for the year in respect of a retirement compensation arrangement to which the employer or a person related to the employer has contributed,

(iii) does not exceed the aggregate of all amounts each of which is an amount paid by the taxpayer in the year or within 60 days after the end of the year in respect of the amount so designated"

(3) Subparagraph 60(l)(v) of the said Act is amended by striking out the word "and" at the end of clause (B) thereof, by adding the word "and" at the end of clause (B.1) thereof and by adding thereto, immediately after clause (B.1) thereof, the following clause:

"(B.2) the amount included in computing the taxpayer's income for the year that was received by the taxpayer as a consequence of the death of the taxpayer's spouse out of or under a provincial pension plan prescribed for the purposes of paragraph (v),"

(4) Paragraph 60(n) of the said Act is amended by adding thereto, immediately after subparagraph (ii.1) thereof, the following subparagraph:

"(ii.2) any amount described in subparagraph 56(1)(a)(vii),"

(5) Clause 60(o.1)(i)(A) of the French version of the said Act is repealed and the following substituted therefor:

"(A) une prestation prévue par quelque régime ou caisse de pensions (sauf une prestation prévue par le régime institué par le *Régime de pensions du Canada* ou un régime provincial de pensions, au sens de l'article 3 de cette loi) en raison de l'emploi du contribuable ou d'un particulier décédé auquel le contribuable était apparenté ou dont il était une personne à charge ou le représentant légal,"

(6) Section 60 of the said Act is further amended by striking out the word "and" at the end of paragraph (v) thereof and by adding thereto, immediately after paragraph (v) thereof, the following paragraph:

UI benefit repayment

"(v.1) any benefit repayment payable by the taxpayer under Part VII of the *Unemployment Insurance Act* on or before April 30 of the following year, to the extent that the amount was not deductible in computing the taxpayer's income or taxable income for any preceding taxation year; and"

(7) Subsections (1) to (3) are applicable to the 1990 and subsequent taxation years, except that where a taxpayer so elects in the taxpayer's return of income under Part I of the said Act for the 1990 taxation year

(a) subsection (2) shall not apply in respect of the taxpayer for that year, and

(b) the expression "amount paid to the taxpayer" in paragraph 60(j.1) of the said Act shall be read as "amount paid on or before Announcement Date to the taxpayer" for that year.

(8) Subsection (4) is applicable with respect to repayments made after September 14, 1989.

(9) Subsection (5) is applicable to the 1986 and subsequent taxation years.

(10) Subsection (6) is applicable to the 1989 and subsequent taxation years.

34. (1) The said Act is further amended by adding thereto, immediately after section 60 thereof, the following section:

Eligible Amount

"60.01 For the purposes of paragraph 60(j), the amount, if any, by which

(a) the amount of any payment received by a taxpayer in a taxation year out of or under a foreign retirement arrangement and included in computing the taxpayer's income by reason of clause 56(1)(a)(i)(C.1) (other than any portion thereof that is included in respect of the taxpayer for the year under subparagraph 60(j)(i) or is part of a series of periodic payments)

exceeds

(b) the portion, if any, of the payment included under paragraph (a) that may reasonably be considered to derive from contributions to the foreign retirement arrangement made by a person other than the taxpayer or the taxpayer's spouse (within the meaning assigned by subsection 146(1.1)) or former spouse

is an eligible amount in respect of the taxpayer for the year."

(2) Subsection (1) is applicable with respect to payments received after Announcement Date.

35. (1) All that portion of subsection 63(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Income exceeding income of supporting person

"(2) Where the income for a taxation year of a taxpayer who has an eligible child for the year exceeds the income for that year of a supporting person of that child (on the assumption that both incomes are computed without reference to this section and paragraphs 60(v.1) and (w)), the amount that may be deducted by the taxpayer under subsection (1) for the year as or on account of child care expenses shall not exceed the lesser of"

(2) Subsection 63(2.1) of the said Act is repealed and the following substituted therefor:

Taxpayer and supporting person with equal incomes



"(2.1) For the purposes of this section, where in any taxation year the income of a taxpayer who has an eligible child for the year and the income of a supporting person of the child are equal (on the assumption that both incomes are computed without reference to this section and paragraphs 60 (v.1) and (w)), no deduction shall be allowed under this section to the taxpayer and the supporting person in respect of the child unless they jointly elect to treat the income of one of them as exceeding the income of the other for the year."

(3) Clause 63(3)(a)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) who is a supporting person of the child or is under 18 years of age and connected with the taxpayer or the taxpayer's spouse by blood relationship, marriage or adoption, or"

(4) Subsections (1) and (2) are applicable to the 1989 and subsequent taxation years.

(5) Subsection (3) is applicable to the 1990 and subsequent taxation years.

36. (1) Paragraph 64(a) of the said Act is repealed and the following substituted therefor:

"(a) the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount that was

(i) paid in the year by the taxpayer to a person (other than a person related to the taxpayer or a person under 18 years of age) as or on account of attendant care provided in Canada to the taxpayer to enable the taxpayer to

(A) perform the duties of an office or employment,

(B) carry on a business either alone or as a partner actively engaged in the business,

(C) undertake an occupational training course in respect of which the taxpayer received a training allowance under the *National Training Act*, or

(D) carry on research or any similar work in respect of which the taxpayer received a grant,

the payment of which is proven by filing with the Minister one or more receipts each of which was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number, and

(ii) not included in computing a deduction under section 118.2 for any taxation year, and

B is the total of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than prescribed assistance or an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income) that any taxpayer is or was entitled to receive in respect of an amount included in computing the value of A,"

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years.

37. (1) Subsection 66(5) of the said Act is repealed and the following substituted therefor:

#### Dealers

"(5) Sections 59, 64, 66.1, 66.2, 66.4 and 66.7 and subsections (3) and (4) do not apply in computing the income for a taxation year of a taxpayer (other than a principal-business corporation) whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons."

(2) Paragraph 66(10.1)(b) of the said Act is repealed and the following substituted therefor:

"(b) assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that may reasonably be regarded as relating to Canadian exploration activities of the joint exploration corporation during the period, other than that portion of such assistance arising by reason of the application of

section 127 or 127.1 in respect of a shareholder corporation of the joint exploration corporation,"

(3) All that portion of subsection 66(12.61) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Effect of renunciation

"(12.61) Subject to subsections (12.69) to (12.701), where a corporation renounces an amount to a person under subsection (12.6),"

(4) All that portion of subsection 66(12.63) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Effect of renunciation

"(12.63) Subject to subsections (12.69) to (12.701), where a corporation renounces an amount to a person under subsection (12.62),"

(5) All that portion of subsection 66(12.65) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Effect of renunciation

"(12.65) Subject to subsections (12.69) to (12.701), where a corporation renounces an amount to a person under subsection (12.64),"

(6) Subsection 66(12.69) of the said Act is repealed and the following substituted therefor:

Filing re partners

"(12.69) Where, in a fiscal period of a partnership, an expense is or, but for this subsection, would be incurred by the partnership as a consequence of a renunciation of an amount under subsection (12.6), (12.62) or (12.64), the partnership shall, on or before the last day of the third month following the end of that period, file with the Minister a prescribed form indicating the share of the expense attributable to each member of the partnership at the end of the period and, where the prescribed form is not so filed, the partnership shall be deemed not to have incurred the expense.

Idem

(12.691) Where a partnership receives or becomes entitled to receive assistance as an agent for its members or former members at a particular time in respect of any Canadian exploration expense, Canadian development expense or Canadian oil and gas property expense that is or,



but for paragraph (12.61)(b), (12.63)(b) or (12.65)(b), would be incurred by a corporation, the following rules apply:

(a) where the entitlement of any such member or former member to any part of such assistance is known by the partnership as of the end of the partnership's first fiscal period ending after the particular time and that part of such assistance was not required to be reported under paragraph (b) in respect of a calendar year ending before the end of that fiscal period, the partnership shall, on or before the last day of the third month following the end of that fiscal period, file with the Minister a prescribed form indicating the share of that part of such assistance paid to each such member or former member before the end of that fiscal period or to which each such member or former member is entitled at the end of that fiscal period;

(b) where the entitlement of any such member or former member to any part of such assistance is known by the partnership as of the end of a calendar year that ends after the particular time and that part of such assistance was not required to be reported under paragraph (a) in respect of a fiscal period ending at or before the end of that calendar year or under this paragraph in respect of a preceding calendar year, the partnership shall, on or before the last day of the third month following the end of that calendar year, file with the Minister a prescribed form indicating the share of that part of such assistance paid to each such member or former member before the end of that fiscal period or to which each such member or former member is entitled at the end of that calendar year; and

(c) where a prescribed form required to be filed under paragraph (a) or (b) is not so filed, the part of such expense relating to the assistance required to be reported in the prescribed form shall be deemed not to have been incurred by the partnership."

(7) Subsection 66(12.7) of the said Act is repealed and the following substituted therefor:

#### Filing

"(12.7) Where a corporation renounces an amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses under subsection (12.6), (12.62) or (12.64), the corporation shall file a prescribed form in respect of the renunciation with the Minister before the end of the first month following the month in which the renunciation is made and, where the prescribed

form is not so filed, subsections (12.61), (12.63) and (12.65) shall not apply in respect of the amount so renounced.

Idem

(12.701) Where a corporation receives or becomes entitled to receive assistance as an agent at a particular time in respect of any Canadian exploration expense, Canadian development expense or Canadian oil and gas property expense that is or, but for paragraph (12.61)(b), (12.63)(b) or (12.65)(b), would be incurred by the corporation, the corporation shall, before the end of the first month following the particular month in which it first becomes known that a person or partnership who holds a flow-through share of the corporation is entitled to a share of any part of such assistance, file with the Minister a prescribed form indicating the share of that part of such assistance to which each such person or partnership is entitled at the end of the particular month and, where the prescribed form is not so filed, the part of such expense relating to the assistance required to be reported in the prescribed form shall be deemed not to have been incurred by the corporation."

(8) Subsection 66(12.72) of the said Act is repealed and the following substituted therefor:

Application of sections 231 to 231.3

"(12.72) Without restricting the generality of sections 231 to 231.3, where a corporation has renounced an amount under subsection (12.6), (12.62) or (12.64), sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain the Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses of the corporation in respect of which the amount was renounced, the amounts renounced in respect of those expenses, any information in respect of the expenses or the amounts renounced and the amount of, or information relating to, any assistance in respect of the expenses."

(9) Subsection 66(12.74) of the said Act is repealed and the following substituted therefor:

Late filed forms

"(12.74) A corporation or partnership may file with the Minister a document referred to in subsection (12.68), (12.69), (12.691), (12.7) or (12.701) after the particular day on or before which the document is required to be filed under the applicable subsection and the document shall, except for the purposes of this subsection and subsection (12.75), be

deemed to have been filed on the day on or before which it was required to be filed if

(a) it is filed

(i) on or before the day that is 90 days after the particular day, or

(ii) after the day that is 90 days after the particular day where, in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the document to be filed; and

(b) the corporation or partnership, as the case may be, pays to the Receiver General at the time of filing a penalty in respect of the late filing."

(10) Subsection 66(12.75) of the said Act is repealed and the following substituted therefor:

#### Penalty

"(12.75) For the purposes of subsection (12.74), the penalty in respect of the late filing of a document referred to in subsection (12.68), (12.69), (12.691), (12.7) or (12.701) is the lesser of \$15,000 and,

(a) where the penalty is in respect of the late filing of the document referred to in subsection (12.68), (12.69) or (12.7), the greater of

(i) \$100, and

(ii) 1/4 of 1% of the maximum amount in respect of the Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses renounced or attributed or to be renounced or attributed as set out in the document; and

(b) where the penalty is in respect of the late filing of a document referred to in subsection (12.691) or (12.701), the greater of

(i) \$100, and

(ii) 1/4 of 1% of the assistance reported in the document."



(11) All that portion of paragraph 66(15)(d.1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"Flow-through share"  
«*action accréditive*»

"(d.1) "flow-through share" means a share (other than a prescribed share) of the capital stock of a principal-business corporation that is issued to a person pursuant to an agreement in writing entered into between the person and the corporation after February 1986, under which the corporation agrees for consideration that does not include property to be exchanged or transferred by the person under the agreement in circumstances in which section 51, 85, 85.1, 86 or 87 applies"

(12) Subsection 66(16) of the said Act is repealed and the following substituted therefor:

Partnerships

"(16) For the purposes of subsections (12.6) to (12.66), paragraphs (15)(a.1) and (d.1) and subsections (18), (19) and 66.3(3) and (4), a partnership shall be deemed to be a person and its taxation year shall be deemed to be its fiscal period."

(13) Subsection 66(17) of the said Act is repealed and the following substituted therefor:

Non-arm's length partnerships

"(17) Where an expense would, but for paragraph (12.61)(b), be incurred during the first 60 days of a calendar year by a corporation and the expense is deemed by subsection (12.61) to be incurred by a partnership, the partnership and the corporation shall be deemed not to deal with each other at arm's length throughout that period for the purposes of paragraph (12.66)(d) only where a share of the expense is included by reason of subparagraph 66.1(6)(a)(iv) in the Canadian exploration expense of the corporation or a member of the partnership with whom the corporation does not deal at arm's length at any time during that period."

(14) Section 66 of the said Act is further amended by adding thereto the following subsections:

Members of partnerships

"(18) For the purposes of subsection 21(2), sections 59.1 and 66 to 66.7 and paragraph (d) of the definition "investment expense" in

subsection 110.6(1), where a person's share of an outlay or expense incurred by a partnership in a fiscal period thereof is included in respect of the person under subparagraph (15)(e)(iv), 66.1(6)(a)(iv), 66.2(5)(a)(iv) or 66.4(5)(a)(ii), the portion of the outlay or expense so included shall be deemed, except for the purposes of applying paragraphs (15)(e), 66.1(6)(a), 66.2(5)(a) and 66.4(5)(a) in respect of the person, to be made or incurred by the person at the end of that fiscal period.

Renunciation by member of partnership, etc.

(19) Notwithstanding subsections (12.6), (12.62) and (12.64), where at any time a corporation

(a) would, but for this subsection, be entitled to renounce

(i) all or part of its share of an outlay or expense made or incurred by a partnership of which the corporation is a member or former member at that time, or

(ii) all or part of an amount renounced to the corporation under subsection (12.6), (12.62) or (12.64),

under subsection (12.6), (12.62) or (12.64) to another person, and

(b) would, if

(i) the expression "end of that fiscal period" in subsection (18) were read as "time the outlay or expense was made or incurred by the partnership", and

(ii) the expression "on the effective date of the renunciation" in each of paragraphs (12.61)(a), (12.63)(a) and (12.65)(a) were read as "at the earliest time that any part of such expense was incurred by the corporation",

not be entitled to so renounce the amount described in subparagraph (a)(i) or (ii) to the other person,

the corporation shall not be entitled to renounce such amount under subsection (12.6), (12.62) or (12.64), as the case may be, at that time to the other person."

(15) Subsection (1) is applicable to taxation years ending after February 17, 1987.

(16) Subsection (2) is applicable with respect to assistance for expenses incurred after November 1985.

(17) Subsections (3) to (5) are applicable after Announcement Date.

(18) Subsection 66(12.69) of the said Act, as enacted by subsection (6), is applicable with respect to fiscal periods ending after Announcement Date.

(19) Subsection 66(12.691) of the said Act, as enacted by subsection (6), is applicable with respect to assistance that a partnership receives or becomes entitled to receive after 1989 and in a fiscal period of the partnership ending after Announcement Date.

(20) Subsection 66(12.7) of the said Act, as enacted by subsection (7), is applicable with respect to renunciations made after Announcement Date.

(21) Subsection 66(12.701) of the said Act, as enacted by subsection (7), is applicable with respect to assistance that a corporation receives or become entitled to receive after Announcement Date.

(22) Subsection (8) is applicable after Announcement Date.

(23) Subsection (9) is applicable with respect to documents filed after June 1988, except that with respect to documents filed on or before Announcement Date, the reference to "(12.691), (12.7) or (12.701)" in subsection 66(12.74) of the said Act, as enacted by subsection (9), shall be read as a reference to "or (12.7)".

(24) Subsection (10) is applicable with respect to

(a) documents filed after the day on which this Act is assented to, and

(b) documents filed after Announcement Date and on or before the day on which this Act is assented to,

except that in its application to documents referred to in paragraph (b), all that portion of subsection 66(12.75) of the said Act preceding paragraph (a) thereof, as enacted by subsection (10), shall be read as follows:

"(12.75) For the purposes of subsection (12.74), the penalty in respect of the late filing of a document referred to in subsection (12.691) and (12.701) is nil and the penalty in respect of the late filing of a document referred to in subsection (12.68), (12.69) or (12.7) is the lesser of".

(25) Subsection (11) is applicable with respect to shares issued pursuant to an agreement in writing entered into after Announcement Date.

(26) Subsections (12) and (13) and subsection 66(18) of the said Act, as enacted by subsection (14), are applicable with respect to fiscal periods ending after February 1986.



(27) Subsection 66(19) of the said Act, as enacted by subsection (14), is applicable in respect of renunciations of outlays or expenses made or incurred after Announcement Date, other than such outlays or expenses made or incurred pursuant to an agreement in writing entered into before Announcement Date.

38. (1) Subsection 66.1(1) of the said Act is repealed and the following substituted therefor:

Amount to be included in income

"66.1(1) There shall be included in computing the amount referred to in paragraph 59(3.2)(b) in respect of a taxpayer for a taxation year the amount, if any, by which

(a) the total of all amounts included under subparagraphs (6)(b)(v) to (xii) in computing the taxpayer's cumulative Canadian exploration expense at the end of the year

exceeds the total of

(b) all amounts included under subparagraphs (6)(b)(i) to (iv.2) in computing the taxpayer's cumulative Canadian exploration expense at the end of the year, and

(c) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the taxpayer for the year."

(2) Paragraph 66.1(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) may deduct such amount as it claims not exceeding the total of

(i) the amount, if any, by which

(A) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the taxpayer for the year

exceeds

(B) the amount that would, but for paragraph (1)(c), be the amount determined under subsection (1) in respect of the taxpayer for the year, and

(ii) the least of

(A) the total of amounts included under subsection 59(3.3) in computing its income for the year,

(B) the amount, if any, by which the amount determined under subparagraph (a)(i) exceeds the amount determined under subparagraph (a)(ii), and

(C) the amount that would be determined under subparagraph (a)(ii) if that subparagraph were read without reference to the expression "(computed without reference to subsection 59(3.3))".

(3) Subsection 66.1(3) of the said Act is repealed and the following substituted therefor:

Expenses of other taxpayers

"(3) In computing the income of a taxpayer (other than a principal-business corporation) for a taxation year, there may be deducted such amount as the taxpayer claims not exceeding the total of

(a) the amount, if any, by which the taxpayer's cumulative Canadian exploration expense at the end of the year exceeds the amount, if any, designated by the taxpayer for the year under subsection 66(14.1); and

(b) the amount, if any, by which

(i) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the taxpayer for the year

exceeds

(ii) the amount that would, but for paragraph (1)(c), be the amount determined under subsection (1) in respect of the taxpayer for the year."

(4) Paragraph 66.1(6)(b) of the said Act is amended by striking out the word "and" at the end of subparagraph (iv) thereof, by adding the word "and" at the end of subparagraph (iv.1) thereof and by adding thereto, immediately after subparagraph (iv.1) thereof, the following subparagraph:

"(iv.2) the aggregate of all amounts each of which is the specified amount determined under paragraph 66.7(12.1)(a) in respect of the taxpayer for a taxation year ending before that time"

(5) Subsection 66.1(7) of the said Act is repealed and the following substituted therefor:

Share of partner

"(7) Where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in subparagraph (6)(b)(iv.1), (vi) or (ix) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph (1)(d) thereof shall, for the purposes of this Act, be deemed to be an amount referred to in subparagraph (6)(b)(iv.1), (vi) or (ix), as the case may be, in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends."

(6) Subsections (1) to (3) are applicable to taxation years ending after February 17, 1987, except that the reference to "(iv.2)" in paragraph 66.1(1)(b) of the said Act, as enacted by subsection (1), shall be read as a reference to "(iv)" with respect to such taxation years commencing before February 18, 1987.

(7) Subsection (4) is applicable to taxation years commencing after February 17, 1987.

(8) Subsection (5) is applicable after January 1990.

39. (1) Subsection 66.2(1) of the said Act is repealed and the following substituted therefor:

Amount to be included in income

"66.2(1) There shall be included in computing the amount referred to in paragraph 59(3.2)(c) in respect of a taxpayer for a taxation year the amount, if any, by which the total of

(a) all amounts included under subparagraphs (5)(b)(iv) to (xiii) in computing the taxpayer's cumulative Canadian development expense at the end of the year, and

(b) the amount that is designated by the taxpayer for the year under subsection 66(14.2)

exceeds the total of



(c) all amounts included under subparagraphs (5)(b)(i) to (iii.2) in computing the taxpayer's cumulative Canadian development expense at the end of the year, and

(d) the total determined under subparagraph 66.7(12.1)(b)(i) in respect of the taxpayer for the year."

(2) Subparagraph 66.2(2)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) the total of

(A) the amount of the taxpayer's cumulative Canadian development expense at the end of the year, and

(B) the amount, if any, by which

(I) the total determined under subparagraph 66.7(12.1)(b)(i) in respect of the taxpayer for the year

exceeds

(II) the amount that would, but for paragraph (1)(d), be determined under subsection (1) in respect of the taxpayer for the year, and"

(3) Paragraph 66.2(5)(b) of the said Act is amended by striking out the word "and" at the end of subparagraph (iii) thereof, by adding the word "and" at the end of subparagraph (iii.1) thereof and by adding thereto, immediately after subparagraph (iii.1) thereof, the following subparagraph:

"(iii.2) the aggregate of all amounts each of which is the specified amount determined under paragraph 66.7(12.1)(b) in respect of the taxpayer for a taxation year ending before that time"

(4) Subclause 66.2(5)(b)(v)(B)(II) of the said Act is repealed and the following substituted therefor:

"(II) the aggregate of all amounts each of which is an amount that would be determined at that time under paragraph 66.7(4)(a) in respect of the acquisition of the property by the taxpayer if that paragraph were read without

reference to the expression "30% of" and clause (i)(C) thereof, and"

(5) Clause 66.2(5)(b)(x)(A) of the said Act is repealed and the following substituted therefor:

"(A) the amount that would be determined at that time under paragraph 66.7(4)(a) in respect of the acquisition of property from a particular original owner or predecessor owner of the property by the taxpayer if that paragraph were read without reference to the expression "30% of" and clause (i)(C) thereof, and"

(6) Subsections 66.2(6) and (7) of the said Act are repealed and the following substituted therefor:

#### Share of partner

"(6) Except as provided in subsection (7), where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (xi) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph (1)(d) thereof shall, for the purposes of this Act, be deemed to be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (xi), whichever is applicable, in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends.

#### Exception

(7) Where a non-resident person is a member of a partnership that is deemed under paragraph 115(4)(b) to have disposed of a property, the person's share of any amount that would be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (xi) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph (1)(d) thereof shall, for the purposes of this Act, be deemed to be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraphs (5)(b)(vi) or (xi), whichever is applicable, in respect of the person for the taxation year of the person that is deemed under paragraph 115(4)(a) to have ended."

(7) Subsections (1), (2), (4) and (5) are applicable to taxation years ending after February 17, 1987, except that the reference to "(iii.2)" in paragraph 66.2(1)(c) of the said Act, as enacted by subsection (1), shall be read as

a reference to "(iii)" with respect to such taxation years commencing before February 18, 1987.

(8) Subsection (3) is applicable to taxation years commencing after February 17, 1987.

(9) Subsection (6) is applicable after January 1990.

40. (1) Subsection 66.4(1) of the said Act is repealed and the following substituted therefor:

Recovery of costs

"66.4(1) For the purposes of subparagraphs (5)(b)(ii), 64(1.2)(a)(ii) and 66.2(5)(b)(x), the amount determined under this subsection in respect of a taxpayer for a taxation year is the amount, if any, by which

(a) the total of all amounts included under subparagraphs (5)(b)(iv) to (ix) in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year

exceeds the total of

(b) all amounts included under subparagraphs (5)(b)(i) to (iii.2) in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year, and

(c) the total determined under subparagraph 66.7(12.1)(c)(i) in respect of the taxpayer for the year."

(2) Subparagraph 66.4(2)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) the total of

(A) the taxpayer's cumulative Canadian oil and gas property expense at the end of the year, and

(B) the amount, if any, by which

(I) the total determined under subparagraph 66.7(12.1)(c)(i) in respect of the taxpayer for the year

exceeds



(II) the amount that would, but for paragraph (1)(c), be determined under subsection (1) in respect of the taxpayer for the year, and"

(3) Paragraph 66.4(5)(b) of the said Act is amended by striking out the word "and" at the end of subparagraph (iii) thereof, by adding the word "and" at the end of subparagraph (iii.1) thereof and by adding thereto, immediately after subparagraph (iii.1) thereof, the following subparagraph:

"(iii.2) the aggregate of all amounts each of which is the specified amount determined under paragraph 66.7(12.1)(c) in respect of the taxpayer for a taxation year ending before that time"

(4) Subclause 66.4(5)(b)(v)(B)(II) of the said Act is repealed and the following substituted therefor:

"(II) the aggregate of all amounts each of which is an amount that would be determined at that time under paragraph 66.7(5)(a) in respect of the property if that paragraph were read without reference to the expression "10% of" and subparagraph (iii) thereof, and"

(5) Subsection 66.4(6) of the said Act is repealed and the following substituted therefor:

#### Share of partner

"(6) Except as provided in subsection (7), where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (viii) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph (1)(d) thereof shall, for the purposes of this Act, be deemed to be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (viii), whichever is applicable, in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends."

(6) Subsection 66.4(7) of the said Act is repealed and the following substituted therefor:

#### Exception

"(7) Where a non-resident person is a member of a partnership that is deemed under paragraph 115(4)(b) to have disposed of any Canadian resource property, the person's share of any amount that would be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraph (5)(b)(vi) or (viii) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph (1)(d) thereof shall, for the purposes of this Act, be deemed to be an amount referred to in subparagraph (5)(b)(iii.1), clause (5)(b)(v)(A) or subparagraphs (5)(b)(vi) or (viii), whichever is applicable, in respect of the person for the taxation year of the person that is deemed under paragraph 115(4)(a) to have ended."

(7) Subsections (1), (2) and (4) are applicable to taxation years ending after February 17, 1987, except that the reference to "(iii.2)" in paragraph 66.4(1)(b) of the said Act, as enacted by subsection (1), shall be read as a reference to "(iii)" with respect to such taxation years commencing before February 18, 1987.

(8) Subsection (3) is applicable to taxation years commencing after February 17, 1987.

(9) Subsection (5) is applicable after January 1990.

(10) Subsection (6) is applicable with respect to taxation years of partnerships commencing after 1984.

41. (1) Paragraph 66.7(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) the Canadian exploration and development expenses incurred by the original owner before the original owner disposed of the particular property to the extent that those expenses were not otherwise deducted in computing the income of the successor for the year, were not deducted in computing the income of the successor for a preceding taxation year and were not deductible under subsection 66(1) or deducted under subsection 66(2) or (3) by the original owner, or deducted by any predecessor owner of the particular property, in computing income for any taxation year; and"

(2) Paragraphs 66.7(2)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) the foreign exploration and development expenses incurred by the original owner before the original owner disposed of the particular property to the extent that those expenses were not otherwise deducted in computing the income of the successor for the year, were not deducted in computing the income of the

successor for a preceding taxation year and were not deductible by the original owner, or deducted by any predecessor owner of the particular property, in computing income for any taxation year; and

(b) the amount, if any, by which the total of

(i) the part of the successor's income for the year that may reasonably be regarded as attributable to

(A) the amount included under subsection 59(1) in computing its income for the year that may reasonably be regarded as attributable to the disposition by it of any interest in or right to the particular property, or

(B) production from the particular property,

computed as if no deduction were allowed under this section and sections 65 to 66.5, and

(ii) the lesser of

(A) the total of all amounts each of which is the amount designated by the successor for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the successor or a predecessor owner of the particular property, not exceeding the amount included in the successor's income for the year, computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules, 1971*, this section and sections 65 to 66.5, that may reasonably be regarded as being attributable to the production after 1988 from the Canadian resource property, and

(B) the amount, if any, by which 10% of the amount described in paragraph (a) for the year in respect of the original owner exceeds the total of all amounts each of which would, but for this subparagraph, clause (iii)(B) and subparagraph (10)(h)(iv), be determined under this paragraph for the year in respect of the particular property or other foreign resource property owned by the original owner immediately before being acquired with the particular property by the



successor or a predecessor owner of the particular property,

exceeds

(iii) the total of all other amounts deducted under this subsection for the year that may reasonably be regarded as attributable to

(A) the part of its income for the year described in subparagraph (i) in respect of the particular property, or

(B) a part of its income for the year described in clause (ii)(A) in respect of which an amount is designated by the successor under clause (ii)(A),

and income in respect of which an amount is designated under clause (b)(ii)(A) shall, for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules, 1971*, clauses (1)(b)(i)(C), (3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) and subparagraph (10)(g)(iii), be deemed not to be attributable to production from a Canadian resource property."

(3) Paragraph 66.7(3)(a) of the said Act is amended by adding thereto, immediately after subparagraph (iii) thereof, the following subparagraph:

"(iii.1) otherwise deducted in computing the income of the successor for the year,"

(4) Clause 66.7(4)(a)(i)(A) of the said Act is amended by adding thereto, immediately after subclause (I) thereof, the following subclause:

"(I.1) otherwise deducted in computing the income of the successor for the year,"

(5) All that portion of subparagraph 66.7(4)(a)(i) of the said Act following clause (A) thereof is repealed and the following substituted therefor:

"exceeds the total of

(B) any amount required to be deducted under paragraph (9)(e) from the cumulative Canadian development expense of the original owner in respect of a predecessor owner of the particular property or the successor, as the case may be, at any time after the disposition of the particular property by the original owner and before the end of the year, and

(C) where the successor acquired the particular property from the original owner at any time in the year (otherwise than by way of an amalgamation or merger or by reason only of the application of paragraph (10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under clause (A),"

(6) Subparagraph 66.7(5)(a)(i) of the said Act is amended by striking out the word "or" at the end of clause (A) thereof and by adding thereto, immediately after clause (A) thereof, the following clause:

"(A.1) otherwise deducted in computing the income of the successor for the year, or"

(7) All that portion of paragraph 66.7(5)(a) following subparagraph (i) thereof is repealed and the following substituted therefor:

"exceeds the total of

(ii) all amounts each of which is an amount that became receivable by a predecessor owner of the particular property or the successor in the year or a preceding taxation year and that

(A) was included by the predecessor owner or the successor in the amount determined under clause 66.4(5)(b)(v)(A) at the end of the year, and

(B) may reasonably be regarded as attributable to the disposition of the particular property by the predecessor owner or the successor, and

(iii) where the successor acquired the particular property from the original owner at any time in the year (otherwise than by way of an amalgamation or merger or by reason only of the application of paragraph (10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under subparagraph (i); and"

(8) Paragraph 66.7(10)(f) of the said Act is repealed.

(9) Subparagraph 66.7(10)(h)(v) of the said Act is repealed and the following substituted therefor:

"(v) for the purposes of determining the amounts under paragraph (2)(b), to be income from the sources described in subparagraph (iii) or (iv), as the case may be, of the transferee for its taxation year in which that taxation year of the transferor ends, and"

(10) All that portion of subsection 66.7(12) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Reduction of Canadian resource expenses

"(12) Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of the original owner's Canadian resource properties to a particular corporation in circumstances in which subsection 29(25) of the *Income Tax Application Rules, 1971* or subsection (1), (3), (4) or (5) applies,"

(11) Paragraph 66.7(12)(b) of the said Act is repealed and the following substituted therefor:

"(b) in determining the cumulative Canadian exploration expense of the original owner at any time after the time referred to in subparagraph (3)(a)(i), there shall be deducted the amount thereof determined immediately after the disposition;

(b.1) for the purpose of paragraph (3)(a), the cumulative Canadian exploration expense of the original owner determined immediately after the disposition that was deductible under subsection 66.1(2) or deducted under subsection 66.1(3) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(i) the amount deducted in respect of the disposition under paragraph (b), and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph (12.1)(a) in respect of the original owner for the year

exceeds

(B) the total of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner before the disposition and in the year;



(b.2) for greater certainty, any amount (other than the amount determined under paragraph (b.1)) that was deductible under subsection 66.1(2) or deducted under subsection 66.1(3) by the original owner for the year or a subsequent taxation year shall, for the purpose of paragraph (3)(a), be deemed not to be in respect of the cumulative Canadian exploration expense of the original owner determined immediately after the disposition;"

(12) Subsection 66.7(12) of the said Act is further amended by adding thereto, immediately after paragraph (c) thereof, the following paragraphs:

"(c.1) for the purpose of paragraph (4)(a), the cumulative Canadian development expense of the original owner determined immediately after the disposition that was deducted under subsection 66.2(2) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(i) the amount deducted in respect of the disposition under paragraph (c), and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph (12.1)(b) in respect of the original owner for the year

exceeds

(B) the total of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner before the disposition and in the year;

(c.2) for greater certainty, any amount (other than the amount determined under paragraph (c.1)) that was deducted under subsection 66.2(2) by the original owner for the year or a subsequent taxation year shall, for the purpose of paragraph (4)(a), be deemed not to be in respect of the cumulative Canadian development expense of the original owner determined immediately after the disposition;"

(13) Subsection 66.7(12) of the said Act is further amended by striking out the word "and" at the end of paragraph (d) thereof and by adding thereto, immediately after paragraph (d) thereof, the following paragraphs:

"(d.1) for the purpose of paragraph (5)(a), the cumulative Canadian oil and gas property expense of the original owner

determined immediately after the disposition that was deducted under subsection 66.4(2) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(i) the amount deducted in respect of the disposition under paragraph (d), and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph (12.1)(c) in respect of the original owner for the year

exceeds

(B) the total of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner before the disposition and in the year;

(d.2) for greater certainty, any amount (other than the amount determined under paragraph (d.1)) that was deducted under subsection 66.4(2) by the original owner for the year or a subsequent taxation year shall, for the purpose of paragraph (5)(a), be deemed not to be in respect of the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition; and"

(14) Section 66.7 of the said Act is further amended by adding thereto, immediately after subsection (12) thereof, the following subsection:

Specified amount

"(12.1) Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of the original owner's Canadian resource properties in circumstances in which subsection (3), (4) or (5) applies,

(a) the lesser of

(i) the total of all amounts each of which is an amount deducted under paragraph (12)(b) in respect of a disposition in the year by the original owner, and

(ii) the total of

(A) the amount claimed by the original owner for the year under subsection 66.1(2) or (3), and

(B) the amount that would, but for paragraph 66.1(1)(c), be determined under subsection 66.1(1) in respect of the original owner for the year

is the specified amount in respect of the original owner for the year for the purposes of subparagraph 66.1(6)(b)(iv.2) and clause (12)(b.1)(ii)(A);

(b) the lesser of

(i) the total of all amounts each of which is an amount deducted under paragraph (12)(c) in respect of a disposition in the year by the original owner, and

(ii) the total of

(A) the amount claimed by the original owner for the year under subsection 66.2(2), and

(B) the amount that would, but for paragraph 66.2(1)(d), be determined under subsection 66.2(1) in respect of the original owner for the year

is the specified amount in respect of the original owner for the year for the purposes of subparagraph 66.2(5)(b)(iii.2) and clause (12)(c.1)(ii)(A); and

(c) the lesser of

(i) the total of all amounts each of which is an amount deducted under paragraph (12)(d) in respect of a disposition in the year by the original owner, and

(ii) the total of

(A) the amount claimed by the original owner for the year under subsection 66.4(2), and

(B) the amount that would, but for paragraph 66.4(1)(c), be determined under subsection 66.4(1) in respect of the original owner for the year



is the specified amount in respect of the original owner for the year for the purposes of subparagraph 66.4(5)(b)(iii.2) and clause (12)(d.1)(ii)(A)."

(15) Subsection 66.7(14) of the said Act is repealed and the following substituted therefor:

Disposal of Canadian resource properties

"(14) Where in a taxation year a predecessor owner of Canadian resource properties disposes of all or substantially all of its Canadian resource properties to a corporation in circumstances in which subsection 29(25) of the *Income Tax Application Rules, 1971* or subsection (1), (3), (4) or (5) applies, for the purposes of applying any of those subsections to the predecessor owner in respect of its acquisition of any of those properties, it shall be deemed, after the disposition, never to have acquired the properties except for the purposes of

(a) determining an amount deductible under subsection (1) or (3) for the year; and

(b) where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, determining an amount deductible under subsection (4) or (5) for the year."

(16) Subsections (1) to (4), (6), (8) and (9) are applicable to taxation years ending after February 17, 1987, except that, where subsection 66.7(2) of the said Act applied to the successor referred to therein by reason of the application of subsection 66.7(10) of the said Act, clause 66.7(2)(b)(ii)(A) of the said Act, as enacted by subsection (2), shall be read without reference to the expression "after 1988".

(17) Subsections (5), (7) and (10) to (14) are applicable with respect to dispositions occurring in taxation years commencing on or after the particular day on which this Act is assented to and with respect to a disposition of a property made by a taxpayer in a taxation year ending after February 17, 1987 and commencing before the particular day, where

(a) the taxpayer, and

(b) each corporation that, before the particular day, acquired the property or any other property which was disposed of by the taxpayer in a taxation year ending after February 17, 1987 as part of a transaction or an event as a consequence of which such corporation was or, but for those subsections, would be entitled to deduct an amount under subsection 66.7(3), (4) or (5) of the said Act in respect of an expense incurred by the taxpayer,

so elect by notice in writing filed with the Minister of National Revenue within 180 days after the particular day and, notwithstanding subsections 152(4) to (5) of the said Act, such assessments and reassessments of tax, interest and penalties shall be made as are necessary to give effect to the election.

(18) Subsection (15) is applicable with respect to dispositions occurring in taxation years ending after February 17, 1987.

42. (1) Paragraph 67.1(2)(e) of the said Act is repealed and the following substituted therefor:

"(e) is incurred by the person for food, beverages or entertainment consumed or enjoyed by, and generally available to, all employees of the person employed at a particular place of business of the person."

(2) Subsection (1) is applicable to taxation years ending after Announcement Date.

43.(1) Section 67.2 of the said Act is repealed and the following substituted therefor:

Interest on money borrowed for passenger vehicle

"67.2 For the purposes of this Act, where an amount is paid or payable for a period by a person in respect of interest on borrowed money used to acquire a passenger vehicle or on an amount paid or payable for the acquisition of such a vehicle, in computing the income of the person for a taxation year the amount of interest so paid or payable shall be deemed to be the lesser of the actual amount paid or payable and the amount determined by the formula

$$\frac{A}{30} \times B$$

where

A is \$250 or such other amount as may be prescribed; and

B is the number of days in the period in respect of which the interest was paid or payable, as the case may be."

(2) Subsection (1) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

44. (1) Section 67.3 of the said Act is repealed and the following substituted therefor:

Limitation re cost of leasing passenger vehicle

"67.3 Notwithstanding any other section of this Act, where

(a) in a taxation year all or part of the actual lease charges in respect of a passenger vehicle are paid or payable, directly or indirectly, by a taxpayer, and

(b) in computing the taxpayer's income for the year an amount may be deducted in respect of such charges,

in determining the amount that may be so deducted, the total of such charges shall be deemed not to exceed the lesser of

(c) the amount determined by the formula

$$\left( \frac{A \times B}{30} \right) - C - D - E$$

where

A is \$600 or such other amount as may be prescribed,

B is the number of days in the period commencing at the beginning of the term of the lease and ending at the earlier of the end of the year and the end of the lease,

C is the total of all amounts deducted in computing the taxpayer's income for preceding taxation years in respect of the actual lease charges in respect of the vehicle,

D is the amount of interest that would be earned on the part of the total of all refundable amounts in respect of the lease that exceeds \$1,000 if interest were

(i) payable on the refundable amounts at the prescribed rate, and

(ii) computed for the period before the end of the year during which the refundable amounts were outstanding, and

E is the total of all reimbursements that became receivable before the end of the year by the taxpayer in respect of the lease; and

(d) the amount determined by the formula



$$\left( \frac{A \times B}{.85C} \right) - D - E$$

where

- A is the total of the actual lease charges in respect of the lease incurred in respect of the year or the total of the actual lease charges in respect of the lease paid in the year (depending upon the method regularly followed by the taxpayer in computing income),
- B is \$20,000 or such other amount as may be prescribed,
- C is the greater of \$23,529 (or such other amount as may be prescribed) and the manufacturer's list price for the vehicle,
- D is the amount of interest that would be earned on that part of the total of all refundable amounts paid in respect of the lease that exceeds \$1,000 if interest were
- (i) payable on the refundable amounts at the prescribed rate, and
  - (ii) computed for the period in the year during which the refundable amounts are outstanding, and
- E is the total of all reimbursements that became receivable during the year by the taxpayer in respect of the lease."

(2) Subsection (1) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987, except that, with respect to amounts paid or payable as a reimbursement in respect of a lease expense, subsection (1) is applicable to taxation years that end after Announcement Date.

(3) Notwithstanding subsection (2), with respect to leases entered into before 1991, the description of C in paragraph 67.3(d) of the said Act, as enacted by subsection (1), shall be read as follows:

- "C is the greater of \$23,529 (or such other amount as may be prescribed) and the total of
- (i) the manufacturer's list price for the vehicle, and
  - (ii) the provincial sales tax, if any, that would have been payable by a purchaser of the vehicle if it had been purchased at the manufacturer's list price for the vehicle at the time the first lease of the vehicle was entered into

and in the province under the laws of which the vehicle was registered for the greatest part of the year,".

45. (1) The said Act is further amended by adding thereto, immediately after section 67.4 thereof, the following section:

Non-deductibility of illegal payments

"67.5(1) In computing income, no deduction shall be made in respect of an outlay made or expense incurred for the purpose of doing anything that is an offence under any of sections 119 to 121, 123 to 125, 393 and 426 of the *Criminal Code* or an offence under section 465 of the *Criminal Code* as it relates to an offence described in any of those sections.

Reassessments

(2) Notwithstanding subsections 152(4) to (5), the Minister may make such assessments, reassessments and additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary to give effect to subsection (1) for any taxation year."

(2) Subsection (1) is applicable to outlays made and expenses incurred after Announcement Date.

46. (1) Subsection 69(3) of the said Act is repealed and the following substituted therefor:

Idem

"(3) Where a non-resident person has neither paid nor agreed to pay to a taxpayer with whom the person was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property or as consideration for the carriage of goods or passengers or for other services, an amount equal to or greater than the amount that would have been a reasonable amount in the circumstances if the non-resident person and the taxpayer had been dealing at arm's length, that reasonable amount shall, for the purpose of computing the taxpayer's income under this Part, be deemed to have been received or receivable by the taxpayer therefor."

(2) Subsection 69(5) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) paragraph 40(2)(e) shall not apply in computing the loss, if any, of the shareholder from the disposition of a share of the

capital stock of the corporation to the corporation on the winding-up."

(3) Subsection (1) is applicable with respect to transactions or events occurring after 1989.

(4) Subsection (2) is applicable with respect to dispositions of shares after 1985.

47. (1) Subsection 70(5.1) of the said Act is repealed and the following substituted therefor:

Eligible capital property of deceased

"(5.1) Notwithstanding subsection 24(1), where at any time a taxpayer has died and any person (in this subsection referred to as the beneficiary) has, as a consequence of the taxpayer's death acquired an eligible capital property of the taxpayer in respect of a business carried on by the taxpayer immediately before that time, (otherwise than by way of a distribution of property by a trust that has claimed a deduction under paragraph 20(1)(b) in respect of the property or in circumstances to which subsection 24(2) applies) the following rules apply:

(a) the taxpayer shall be deemed to have disposed of the property, immediately before the taxpayer's death, for proceeds equal to 4/3 of that proportion of the cumulative eligible capital of the taxpayer in respect of the business that the fair market value immediately before that time of the property is of the fair market value immediately before that time of all of the eligible capital property of the taxpayer in respect of the business;

(b) subject to paragraph (c), the person who has so acquired the property shall be deemed to have acquired a capital property, immediately after the death of the taxpayer, at a cost equal to the proceeds of disposition referred to in paragraph (a); and

(c) where the beneficiary continues to carry on the business previously carried on by the taxpayer, the beneficiary shall be deemed to have acquired an eligible capital property and to have made an eligible capital expenditure at a cost equal to the total of

(i) the proceeds of disposition referred to in paragraph (a), and

(ii) 4/3 of that proportion of the amount, if any determined under sub-paragraph 14(5)(a)(v) in respect of the business of the taxpayer at that time that the fair market value immediately before that time of the



particular property is of the fair market value immediately before that time of all eligible capital property of the taxpayer in respect of the business,

and, for the purposes of determining at any time the beneficiary's cumulative eligible capital in respect of the business, an amount equal to 3/4 of the amount determined under subparagraph (ii) shall be added to the amount otherwise determined in respect thereof under clause 14(5)(a)(v)(A)."

(2) All that portion of paragraph 70(6)(d) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(d) subject to paragraph (d.1), the taxpayer shall be deemed to have disposed of the property immediately before the taxpayer's death and to have received proceeds of disposition therefor equal to,"

(3) Subsection 70(6) of the said Act is further amended by striking out the word "and" at the end of paragraph (d) thereof and by adding thereto, immediately after paragraph (d) thereof, the following paragraph:

"(d.1) where the property is an interest in a partnership (other than an interest in a partnership to which subsection 100(3) applies),

(i) the taxpayer shall, except for the purposes of paragraph 98(5)(g), be deemed not to have disposed of the property as a consequence of the taxpayer's death,

(ii) the spouse or trust, as the case may be, shall be deemed to have acquired the property for an amount equal to the cost thereof to the taxpayer, and

(iii) each amount added or deducted in computing the adjusted cost base to the taxpayer of the property shall be deemed to be required by subsection 53(1) or (2) to be added or deducted, as the case may be, in computing the adjusted cost base to the spouse or trust, as the case may be, of the property; and"

(4) Paragraph 70(7)(a) of the said Act is repealed and the following substituted therefor:

"(a) for the purposes of determining the day on or before which a return (in this subsection referred to as the "taxpayer's return") of the taxpayer's income for the taxation year in which the taxpayer died is required to be filed by the taxpayer's legal

representatives, subsection 150(1) shall be read without reference to paragraph (b) thereof and the reference in paragraph 150(1)(d) to "on or before April 30 in the next year" shall be read as "within 18 months after the person's death"; and"

(5) Subsection 70(9.2) of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof and by repealing all that portion thereof following paragraph (a) thereof and substituting the following therefor:

"(b) where the property is a share of the capital stock of a family farm corporation, the taxpayer shall be deemed to have disposed of the property immediately before the taxpayer's death and to have received proceeds of disposition therefor equal to its adjusted cost base to the taxpayer immediately before the death and the child shall be deemed to have acquired the property for an amount equal to the proceeds, and

(c) where the property is an interest in a family farm partnership (other than an interest in a partnership to which subsection 100(3) applies),

(i) the taxpayer shall, except for the purposes of paragraph 98(5)(g), be deemed not to have disposed of the property as a consequence of the taxpayer's death,

(ii) the child shall be deemed to have acquired the property for an amount equal to the cost thereof to the taxpayer, and

(iii) each amount added or deducted in computing the adjusted cost base to the taxpayer of the property shall be deemed to be required by subsection 53(1) or (2) to be added or deducted, as the case may be, in computing the adjusted cost base to the child of the property,

except that, where the legal representative of the taxpayer has so elected in the taxpayer's return of income under this Part for the year in which the taxpayer died, paragraph (c) shall not apply and paragraph (b) shall be read as follows:

"(b) the taxpayer shall be deemed to have disposed of the property immediately before the taxpayer's death and to have received proceeds of disposition therefor equal to such amount as the legal representative has elected, not greater than the greater of or less than the lesser of

(i) the fair market value of the property immediately before the death, and

(ii) the adjusted cost base to the taxpayer of the property immediately before the death,

and the child shall be deemed to have acquired the property for an amount equal to those proceeds, except that for the purposes of this paragraph, where such elected amount exceeds the greater of the amounts determined under subparagraphs (i) and (ii), it shall be deemed to be equal to the greater thereof, and where such elected amount is less than the lesser of the amounts determined under those subparagraphs, it shall be deemed to be equal to the lesser thereof."

(6) Subsection 70(9.3) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof and by repealing all that portion thereof following paragraph (c) thereof and substituting the following therefor:

"(d) where the property is a share of the capital stock of a family farm corporation, the trust shall be deemed to have disposed of the share immediately before the death of the spouse and to have received proceeds of disposition therefor equal to its adjusted cost base to the trust immediately before the death of the spouse, and the child shall be deemed to have acquired the property for an amount equal to those proceeds, and

(e) where the property is an interest in a family farm partnership (other than an interest in a partnership to which subsection 100(3) applies),

(i) the trust shall, except for the purposes of paragraph 98(5)(g), be deemed not to have disposed of the property as a consequence of the death of the spouse,

(ii) the child shall be deemed to have acquired the property for an amount equal to the cost thereof to the trust, and

(iii) each amount added or deducted in computing the adjusted cost base to the trust of the property shall be deemed to be required by subsection 53(1) or (2) to be added or deducted, as the case may be, in computing the adjusted cost base to the child of the property,

except that, where the trust has so elected in its return of income under this Part for its taxation year in which the spouse died, paragraph (e) shall not apply and paragraph (d) shall be read as follows:



"(d) the trust shall be deemed to have disposed of the property immediately before the death of the spouse and to have received proceeds of disposition therefor equal to such amount as the trust has elected, not greater than the greater of or less than the lesser of

(i) the fair market value of the property immediately before the death of the spouse, and

(ii) the adjusted cost base to the trust of the property immediately before the death of the spouse,

and the child shall be deemed to have acquired the property for an amount equal to those proceeds, except that for the purposes of this paragraph, where such elected amount exceeds the greater of the amounts determined under subparagraphs (i) and (ii), it shall be deemed to be equal to the greater thereof, and where such elected amount is less than the lesser of the amounts determined under those subparagraphs, it shall be deemed to be equal to the lesser thereof,".

(7) All that portion of subsection 70(9.8) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Leased farm property

"(9.8) For the purposes of subsection 14(1), paragraph 20(1)(b), subsections (9) and 73(3) and the definition "qualified farm property" in paragraph 110.6(1)(d), where at any time any property of the taxpayer was used by"

(8) Subsection (1) is applicable with respect to acquisitions occurring as a consequence of the death of a taxpayer after the commencement of the first fiscal period of the taxpayer's business commencing after 1987 except that, in applying subsection 70(5.1) of the said Act, as enacted by subsection (1), in respect of acquisitions occurring before Announcement Date, that subsection shall be read without reference to "(otherwise than under a distribution of property by a trust that has claimed a deduction under paragraph 20(1)(b) in respect of the property or in circumstances to which subsection 24(2) applies)".

(9) Subsections (2), (3), (5) and (6) are applicable with respect to transfers, distributions and acquisitions occurring after January 15, 1987.

(10) Subsection (4) is applicable to the 1990 and subsequent taxation years.

(11) Subsection (7) is applicable to the 1986 and subsequent taxation years.

48. (1) Paragraph 72((1)(c) of the said Act is repealed and the following substituted therefor:

"(c) no amount may be claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing any gain of the taxpayer for the year;"

(2) All that portion of paragraph 72(2)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) any amount in respect of the property that could, but for paragraph (1)(c), have been claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing the amount of any gain of the taxpayer for the year shall,"

(3) Clause 72(2)(b)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) the amount determined under subparagraph 40(1)(a)(i) or 44(1)(e)(i), as the case may be, in respect of the capital property referred to in clause (A); and"

(4) Subparagraph 72(2)(c)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) the amount of the transferee's claim under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in respect of the disposition of the property, and"

(5) Subsections (1) to (4) are applicable to the 1990 and subsequent taxation years.

49. (1) Paragraph 73(1)(d) of the said Act is repealed and the following substituted therefor:

"(d) an individual of the opposite sex, pursuant to an order for the support or maintenance of the individual, made by a competent tribunal in accordance with the laws of a province, where the individual and the taxpayer cohabited in a conjugal relationship before the date of the order,"

(2) Subsection (1) is applicable with respect to transfers occurring after Announcement Date.

50. (1) All that portion of subsection 74.2(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Deemed gain or loss.

"(2) Where an amount is deemed under subsection (1), 74(2) or 75(2) or section 75.1 to be a taxable capital gain or an allowable capital loss of an individual for a taxation year,"

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years.

51. (1) Paragraph 74.4(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) the person is a designated person in respect of the individual and would have been a specified shareholder of the corporation if the definition "specified shareholder" in subsection 248(1) were read without reference to paragraphs (a) and (d) thereof and if the reference therein to "any other corporation that is related to the corporation" were read as a reference to "any other corporation (other than a small business corporation) that is related to the corporation","

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years with respect to loans and transfers made after October 27, 1986.

52. (1) Paragraph 74.5(3)(b) of the said Act is repealed and the following substituted therefor:

"(b) section 74.2 does not apply with respect to a disposition of the property, or property substituted therefor, occurring at any time while the individual is living separate and apart from that person by reason of a breakdown of their marriage, if an election completed jointly with that person not to have that section apply is filed with the individual's return of income under this Part for the taxation year that includes that time or for any preceding taxation year."

(2) Subsection (1) is applicable with respect to transfers of property made after May 22, 1985 and loans outstanding on or after May 22, 1985.

53. (1) Paragraph 75.1(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) subsection 73(3) or (4) applied in respect of the transfer of property (in this subsection referred to as "transferred property") by a taxpayer to a child of the taxpayer,"



(2) Subsection (1) is applicable with respect to property transferred after 1989.

54. (1) Subsections 76(1) and (2) of the said Act are repealed and the following substituted therefor:

Security in satisfaction of income debt

"76.(1) Where a person has received a security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as payment of, in lieu of payment of or in satisfaction of a debt that was then payable, the amount of which debt would be included in computing the person's income if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing the person's income for the taxation year in which it was received.

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a person wholly or partially as payment of, in lieu of payment of or in satisfaction of a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection (1), be deemed to have been received by the person holding it at that time when the debt became payable."

(2) Subsection (1) is applicable with respect to securities, rights, certificates of indebtedness and other evidences of indebtedness received after Announcement Date.

55. (1) Subsection 78(4) of the said Act is repealed and the following substituted therefor:

Unpaid remuneration and other amounts

"(4) Where an amount in respect of a taxpayer's expense that is a superannuation or pension benefit, a retiring allowance, salary, wages or other remuneration (other than reasonable vacation or holiday pay or a deferred amount under a salary deferral arrangement) in respect of an office or employment is unpaid on the day that is 180 days after the end of the taxation year in which the expense was incurred, for the purposes of this Act other than this subsection, the amount shall be deemed not to have been incurred as an expense in the year and shall be deemed to be incurred as an expense in the taxation year in which the amount is paid."

(2) Subsection (1) is applicable with respect to expenses incurred in taxation years ending after Announcement Date.

56. (1) Subparagraph 79(e)(i) of the said Act is repealed and the following substituted therefor:

"(i) the amount, if any, claimed by the taxpayer under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing the taxpayer's gain for the immediately preceding taxation year from the disposition of the property, and"

(2) Subsection (1) is applicable

(a) to property in respect of which a taxpayer has claimed an amount under subparagraph 44(1)(e)(iii) of the said Act and that was acquired or reacquired by the taxpayer after 1985 and before Announcement Date, where the taxpayer so elects on or before July 1991, and

(b) to property acquired or reacquired after Announcement Date,

and, notwithstanding subsections 152(4) to (5) of the said Act, the Minister of National Revenue shall make such assessment or reassessment of the taxpayer's tax, interest and penalties payable for any taxation year as is necessary in order to take an election made pursuant to paragraph (a) into account.

57. (1) Subsection 80(4) of the said Act is repealed and the following substituted therefor:

Principal for interest payable.

"(4) For the purposes of subsections (1) and (3), an amount of interest in respect of a debt or other obligation of a taxpayer shall be deemed to be a debt or other obligation issued by the taxpayer for an amount, and to have a principal amount, equal to the portion thereof that was deductible, or would, but for subsection 18(2) or (3.1) or section 21, have been deductible, in computing the taxpayer's income for a taxation year under this Part."

(2) Subsection (1) is applicable with respect to interest in respect of debts or other obligations settled or extinguished after May 9, 1985.

58. (1) Subsection 80.3(5) of the said Act is repealed and the following substituted therefor:

#### Inclusion of deferred amount

"(5) The amount deducted under subsection (4) in computing the income of a taxpayer for a particular taxation year from a farming business carried on in a prescribed drought region may, to the extent that the taxpayer so elects, be included in computing the taxpayer's income from the business for a taxation year ending after the particular taxation year, and shall, except to the extent that the amount has been included under this subsection in computing the taxpayer's income from the business for a preceding taxation year after the particular year, be deemed to be income of the taxpayer from the business for the taxation year of the taxpayer that is the earliest of

(a) the first taxation year commencing after the end of the period or series of continuous periods, as the case may be, for which the region was a prescribed drought region;

(b) the first taxation year, following the particular taxation year, at the end of which the taxpayer was

(i) non-resident, and

(ii) not carrying on business through a fixed place of business in Canada; and

(c) the taxation year in which the taxpayer died."

(2) Paragraph 80.3(6)(b) of the said Act is repealed and the following substituted therefor:

"(b) where at the end of the year the taxpayer is non-resident and not carrying on the business through a fixed place of business in Canada."

(3) Subsections (1) and (2) are applicable to fiscal periods and taxation years ending after 1987.

59. (1) All that portion of paragraph 80.4(7)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"home purchase loan"

«prêt consenti pour l'achat d'une maison»

"(a) "home purchase loan" means that portion of any loan received or debt otherwise incurred by an individual in the circumstances described in subsection (1) that is used to acquire, or to repay a loan or debt that had been received or incurred to acquire, a dwelling, or a share of the capital stock of a cooperative



housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the habitation of"

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

60. (1) Paragraph 81(1)(d) of the said Act is repealed and the following substituted therefor:

Service pension, allowance or compensation

"(d) a pension payment, an allowance or compensation that is received under or is subject to the *Pension Act*, the *Civilian War Pensions and Allowances Act* or the *War Veterans Allowance Act*, an amount received under the *Gallantry Gratuities and Annuities Order* or compensation received under regulations made under section 9 of the *Aeronautics Act*;"

(2) Paragraph 81(1)(e) of the said Act is repealed and the following substituted therefor:

War pensions

"(e) a pension payment received on account of disability or death arising out of a war from a country that was an ally of Canada at the time of the war, if that country grants substantially similar relief for the year to a person receiving a pension referred to in paragraph (d);"

(3) Subsection 81(1) of the said Act is further amended by adding thereto, immediately after paragraph (g.2) thereof, the following paragraph:

Social assistance

"(h) where the taxpayer is an individual (other than a trust), a social assistance payment (other than a prescribed payment) ordinarily made on the basis of a means, needs or income test under a program provided for by an Act of the Parliament of Canada or a law of a province, to the extent that it is received directly or indirectly by the taxpayer for the benefit of another individual (other than a person who is cohabiting in a conjugal relationship with the taxpayer or is related to the taxpayer or to such a person), if

(i) no family allowance under the *Family Allowances Act* or a similar allowance under a law of a province that provides for payment of an allowance similar to the family

allowance provided under the *Family Allowances Act* is paid in respect of the other individual for the period in respect of which the social assistance payment is made, and

(ii) the other individual resides in the taxpayer's principal place of residence, or the taxpayer's principal place of residence is maintained for use as the residence of such other individual, throughout the period referred to in subparagraph (i);"

(4) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(5) Subsection (2) is applicable to the 1988 and subsequent taxation years.

(6) Subsection (3) is applicable to the 1982 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the said Act, the Minister of National Revenue may make such assessments or reassessments of tax, amounts deemed to be paid on account of tax, interest and penalties payable or deemed to be paid by the taxpayer for any such year as are necessary to give effect to subsection (3) if before 1992 the taxpayer in writing requests the Minister to do so.

61. (1) Paragraph 84(1)(c.3) of the said Act is repealed and the following substituted therefor:

"(c.3) where the corporation is a corporation other than an insurance corporation or a bank, any action by which it converts into paid-up capital in respect of shares of a class of its capital stock any of its contributed surplus that arose after March 31, 1977

(i) on the issuance of shares of that class (other than an issuance to which section 51, 66.3, 85, 85.1, 86 or 87 or subsection 192(4.1) or 194(4.1) applied), or

(ii) on the acquisition of property from a person who held any of the issued shares of that class by the corporation for no consideration or for consideration that did not include shares of the capital stock of the corporation,

other than contributed surplus that arose as part of a transaction or a series of transactions

(iii) in which shares of the capital stock of a particular corporation resident in Canada were disposed of to the corporation, and

(iv) immediately after the completion of which, the particular corporation was connected with the corporation (within the meaning assigned by subsection 186(4) on the assumption that the particular corporation was a "payer corporation" within the meaning of that subsection),"

(2) Subsection 84(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (d) thereof, by adding the word "and" at the end of paragraph (e) thereof and by adding thereto, immediately after paragraph (e) thereof, the following paragraph:

"(f) the amount, if any, of the increase in the paid-up capital that resulted from a conversion referred to in paragraph (c.1), (c.2) or (c.3),"

(3) Subsection 84(7) of the said Act is repealed and the following substituted therefor:

When dividend payable

"(7) A dividend that is deemed by this section or section 84.1 or 212.1 to have been paid at a particular time shall be deemed, for the purposes of this subdivision and sections 131 and 133, to have become payable at that time."

(4) Subsection (1) is applicable with respect to actions occurring after Announcement Date.

(5) Subsection (2) is applicable after 1985.

(6) Subsection (3) is applicable with respect to dividends paid after 1988.

62. (1) All that portion of paragraph 84.1(1)(b) of the said Act preceding the formula therein is repealed and the following substituted therefor:

"(b) for the purposes of this Act, a dividend shall be deemed to have been paid to the taxpayer by the purchaser corporation and received by the taxpayer from the purchaser corporation at the time of the disposition in an amount determined by the formula"

(2) Subparagraphs 84.1(2)(c)(i) to (iii) of the said Act are repealed and the following substituted therefor:



"(i) the taxpayer's child (within the meaning assigned by paragraph 70(10)(a)), who is under 18 years of age, or the taxpayer's spouse,

(ii) a trust of which the taxpayer, a person described in subparagraph (i) or a corporation described in subparagraph (iii) is a beneficiary, or

(iii) a corporation controlled by the taxpayer, a person described in subparagraph (i), a trust described in subparagraph (ii) or any combination thereof"

(3) Subsection 84.1(2) of the said Act is further amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) a trust and a beneficiary of the trust or a person related to a beneficiary of the trust shall be deemed not to deal with each other at arm's length."

(4) Section 84.1 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Idem

"(2.1) For the purposes of subparagraph (2)(a.1)(ii), where the taxpayer or an individual with whom the taxpayer did not deal at arm's length (in this paragraph referred to as the "transferor") disposes of a share in a taxation year and claims an amount under subparagraph 40(1)(a)(iii) in computing the gain for the year from the disposition, the amount in respect of which a deduction under section 110.6 was claimed in respect of the transferor's gain from the disposition shall be deemed to be equal to the lesser of

(a) the total of

(i) the amount claimed under subparagraph 40(1)(a)(iii) by the transferor for the year in respect of the disposition, and

(ii)  $\frac{4}{3}$  of the amount deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the disposition, and

(b)  $\frac{4}{3}$  of the maximum amount that could have been deducted under section 110.6 in computing the taxable income of the

transferor for the year in respect of the taxable capital gain from the disposition if

(i) no amount had been claimed by the transferor under subparagraph 40(1)(a)(iii) in computing the gain for the year from the disposition, and

(ii) all amounts deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of taxable capital gains from dispositions of other property were made before determining the maximum amount that could have been deducted under section 110.6 in respect of the taxable capital gain from the disposition,

and, for the purposes of subparagraph (b)(ii), 3/4 of the amount determined under this subsection shall be deemed to have been deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the disposition;"

(5) Subsection (1) is applicable with respect to dispositions occurring after May 22, 1985.

(6) Subsections (2) to (4) are applicable with respect to dispositions occurring after Announcement Date.

63. (1) Subsection 85(1) of the said Act is amended by adding thereto, immediately after paragraph (c.1) thereof, the following paragraph:

"(c.2) subject to paragraphs (b) and (c) and notwithstanding paragraph (c.1), where the taxpayer carries on a farming business the income from which is computed in accordance with the cash method and the property was inventory owned in connection with that business immediately before the particular time when the property was disposed of to the corporation,

(i) the amount that the taxpayer and the corporation have agreed upon in their election in respect of inventory purchased by the taxpayer shall be deemed to be equal to the amount determined by the formula

$$(A \times \frac{B}{C}) + D$$

where

A is the amount that would be included by reason of paragraph 28(1)(c) in computing the taxpayer's

income for the taxpayer's last taxation year commencing before the particular time if that year had ended immediately before the particular time,

- B is the value (determined in accordance with subsection 28(1.2)) to the taxpayer immediately before the particular time of the purchased inventory in respect of which the election is being made,
- C is the value (determined in accordance with subsection 28(1.2)) of all of the inventory purchased by the taxpayer that was owned by the taxpayer in connection with that business immediately before the particular time, and
- D is such additional amount as the taxpayer and the corporation designate in respect of the property,

(ii) for the purpose of subparagraph 28(1)(a)(i), the disposition of the property and the receipt of proceeds of disposition therefor shall be deemed to have occurred at the particular time and in the course of carrying on the business, and

(iii) where the property is owned by the corporation in connection with a farming business and the income from that business is computed in accordance with the cash method, an amount equal to the cost to the corporation of the property shall, for the purpose of subparagraph 28(1)(e)(i), be deemed to have been paid by the corporation at the particular time and in the course of carrying on that business;"

(2) All that portion of paragraph 85(1)(e.2) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"and it is reasonable to regard any part of such excess as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer (other than the corporation, where all of its issued shares, except directors' qualifying shares, are owned by the taxpayer immediately before the disposition), the amount that the taxpayer and the corporation have agreed on in their election in respect of the property shall, irrespective of the amount actually so agreed on by them, be deemed (except for the purposes of paragraphs (g) and (h)) to be an amount equal to the total of the amount referred to in subparagraph (ii) and that part of such excess;"



(3) Subsection 85(1.1) of the said Act is amended by striking out the word "or" at the end of paragraph (f) thereof, by adding the word "or" at the end of paragraph (g) thereof and by adding thereto the following paragraph:

"(h) a capital property that is real property, an interest therein or an option in respect thereof, owned by a non-resident person (other than a non-resident insurer) and used in the year in a business carried on by that person in Canada."

(4) Section 85 of the said Act is further amended by adding thereto, immediately following subsection (1.1) thereof, the following subsection:

Application of subsection (1)

"(1.2) Subsection (1) does not apply to a disposition by a taxpayer to a corporation of a property referred to in paragraph (1.1)(h) unless

(a) immediately after the disposition, the corporation was controlled by the taxpayer, a person or persons related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) to the taxpayer or the taxpayer and a person or persons so related to the taxpayer;

(b) the disposition was part of a transaction or series of transactions in which all or substantially all of the property used in the business referred to in paragraph (1.1)(h) was disposed of by the taxpayer to the corporation; and

(c) the disposition was not part of a series of transactions that resulted in control of the corporation being acquired by a person or group of persons after the time that is immediately after the disposition."

(5) All that portion of subsection 85(4) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

Loss from disposition to controlled corporation

"(4) Where a taxpayer or a partnership (in this subsection referred to as the "taxpayer") has disposed of any capital property of the taxpayer or eligible capital property in respect of a business of the taxpayer to a corporation that immediately after the disposition was controlled, directly or indirectly in any manner whatever, by the taxpayer, by the spouse of the taxpayer or by a person or group of persons by whom the taxpayer was controlled, directly or indirectly in any manner whatever, the following rules apply:

(a) notwithstanding any other provision of this Act,

(i) the capital loss therefrom, and

(ii) any deduction pursuant to paragraph 24(1)(a) in respect of the business in computing the taxpayer's income for the taxation year in which the taxpayer ceased to carry on the business,

shall be deemed to be nil; and"

(6) All that portion of paragraph 85(4)(b) of the said Act following subparagraph (i) thereof and preceding subparagraph (iii) thereof is repealed and the following substituted therefor:

"exceeds the total of

(ii) the taxpayer's proceeds of disposition of the property or, where the property was an eligible capital property, the taxpayer's eligible capital amount resulting from the disposition of the property, and

(ii.1) where the property disposed of by the taxpayer was a share of the capital stock of a corporation, the total of all amounts each of which is an amount that but for paragraph (a) and paragraph 40(2)(e) would be deducted

(A) under subsection 93(2), 112(3) or (3.2) in computing a loss of the taxpayer from the disposition, or

(B) where the taxpayer is a partnership, by a corporation that is a member of the partnership under subsection 112(3.1) in computing its share of the loss of the partnership from the disposition,

that"

(7) Subsections (1), (5) and (6) are applicable with respect to dispositions occurring after Announcement Date.

(8) Subsection (2) is applicable with respect to dispositions occurring after June 1988.

(9) Subsections (3) and (4) are applicable with respect to

(a) dispositions occurring after 1989, and

(b) dispositions occurring after 1984 where the taxpayer is a resident of a country with which Canada has a tax treaty and a provision of that treaty that was prescribed for the purposes of section 115.1 of the said Act was effective at the time the disposition occurred.

64. (1) Paragraph 87(2)(b) of the said Act is repealed and the following substituted therefor:

Inventory

"(b) for the purpose of computing the income of the new corporation, where the property described in the inventory, if any, of the new corporation at the commencement of its first taxation year includes property that was described in the inventory of a predecessor corporation at the end of the taxation year of the predecessor corporation that ended immediately before the amalgamation (which taxation year of a predecessor corporation is referred to in this section as its "last taxation year"), the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first taxation year for an amount determined in accordance with section 10 as the value thereof for the purpose of computing the income of the predecessor corporation for its last taxation year, except that where the income of the predecessor corporation for its last taxation year from a farming business was computed in accordance with the cash method, the amount so determined in respect of inventory owned in connection with that business shall be deemed to be the total of all amounts each of which is an amount included in computing such income by reason of paragraph 28(1)(b) or (c) for that year and, where the income of the new corporation from a farming business is computed in accordance with the cash method, an amount equal to that total shall, for the purpose of subparagraph 28(1)(e)(i), be deemed to have been paid by the new corporation in its first taxation year in the course of carrying on that business;"

(2) Clause 87(2)(d)(ii)(C) of the said Act is repealed and the following substituted therefor:

"(C) a reference in subparagraph 13(5)(b)(ii) to amounts that would have been deducted by a taxpayer in respect of transferred property, shall be construed as including a reference to amounts that would have been deducted by a predecessor corporation in respect of that property, and"

(3) Paragraph 87(2)(j.3) of the said Act is repealed and the following substituted therefor:



Employee benefit plans, etc.

"(j.3) for the purposes of paragraphs 12(1)(n.2) and (n.3), 20(1)(r), (oo) and (pp), section 32.1 and Part XI.3, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

(4) Paragraph 87(2)(j.6) of the said Act is repealed and the following substituted therefor:

Continuing corporation

"(j.6) for the purposes of paragraphs 12(1)(t) and (x), subsections 13(7.1) and (7.4), subparagraph 13(21)(f)(ii.2), subsection 13(24), paragraphs 13(27)(b) and (28)(c), subsection 13(29), paragraphs 20(1)(e) and (hh) and 37(1)(c), subparagraphs 53(2)(c)(vi) and (h)(ii), paragraph 53(2)(s), subsections 53(2.1) and 66(11.4), subparagraph 66.1(6)(b)(xi) and subsection 66.7(11), the new corporation shall be deemed to be the same corporation as and a continuation of each predecessor corporation;"

(5) Paragraph 87(2)(m) of the said Act is repealed and the following substituted therefor:

Reserves

"(m) for the purpose of computing the income of the new corporation for a taxation year, any amount claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing a predecessor corporation's gain for its last taxation year from the disposition of any property shall be deemed

(i) to have been claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii), as the case may be, in computing the new corporation's gain for a taxation year immediately preceding its first taxation year from the disposition of that property by it before its first taxation year, and

(ii) to be the amount determined under subparagraph 40(1)(a)(i) or 44(1)(e)(i), as the case may be, in respect of that property;"

(6) Paragraph 87(2)(z.1) of the said Act is repealed and the following substituted therefor:

### Capital dividend account

"(z.1) for the purposes of computing the capital dividend account of the new corporation, it shall be deemed to be the same corporation as and a continuation of each predecessor corporation, other than a predecessor corporation to which subsection 83(2.1) would, if a dividend were paid immediately before the amalgamation and an election were made under subsection 83(2) in respect of the full amount of that dividend, apply to deem any portion of the dividend to be paid by the predecessor corporation as a taxable dividend;"

(7) Paragraph 87(2)(bb) of the said Act is repealed and the following substituted therefor:

#### ˆ Mutual fund and investment corporations

"(bb) where the new corporation is a mutual fund corporation or an investment corporation, there shall be added to the amount determined under each of subparagraphs 131(6)(b)(i) and (ii) and (d)(i) and (ii) in respect of the new corporation at any time the amount so determined immediately before the amalgamation in respect of each predecessor corporation that was a mutual fund corporation or an investment corporation;"

(8) Subparagraph 87(2)(ll)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) the amount of its claim under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in respect of the disposition of the property,"

(9) Subsection 87(4.2) of the said Act is amended by striking out the word "and" at the end of paragraph (d) thereof, by adding the word "and" at the end of paragraph (e) thereof and by adding thereto the following paragraph:

"(f) where the terms or conditions of the exchanged share or an agreement in respect of the exchanged share specify an amount in respect of the share for the purposes of subsection 191(4), the new share shall,

(i) for the purposes of subparagraphs 191(4)(d)(i) and (e)(i), be deemed to have been issued for the same consideration as the exchanged share and to have been issued for the purpose for which the exchanged share was issued, and

(ii) for the purposes of subparagraphs 191(4)(d)(ii) and (e)(ii), be deemed to be the same share as the exchanged share and to have been issued for the purpose for which the exchanged share was issued

where the amount specified in respect of the new share is the same as the amount specified in respect of the exchanged share."

(10) Section 87 of the said Act is further amended by adding thereto, immediately after subsection (4.3) thereof, the following subsection:

Flow-through shares

"(4.4) Where

(a) there has been an amalgamation of two or more corporations each of which was a principal-business corporation (within the meaning assigned by paragraph 66(15)(h)) or a corporation that at no time carried on business,

(b) a predecessor corporation entered into an agreement with a person at a particular time for consideration given by the person to the predecessor corporation,

(c) a share of the predecessor corporation

(i) that was a flow-through share (in this subsection having the meaning that would be assigned by paragraph 66(15)(d.1) if that paragraph were read without reference to the portion thereof following subparagraph (ii) thereof) was issued to the particular person before the amalgamation, or

(ii) that would (if it were issued) be a flow-through share, was to be issued to the particular person

for the consideration under the agreement, and

(d) the new corporation

(i) issued a share (in this subsection referred to as a "new share") of any class of its capital stock on the amalgamation to the person in consideration for the disposition of the flow-through share of the predecessor corporation and the terms and conditions of the new share are the same as, or substantially the same as, the terms and conditions of the flow-through share, or



(ii) was obliged after the amalgamation to issue a new share of any class of its capital stock to the particular person pursuant to the obligation of the predecessor corporation to issue a flow-through share of the predecessor corporation to the particular person and the new share would not, if issued, be a share prescribed under paragraph 66(15)(d.1),

for the purposes of subsection 66(12.66) and for the purposes of renouncing an amount under subsection 66(12.6), (12.62) or (12.64) in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation,

(e) the particular person shall be deemed to have given the consideration under the agreement to the new corporation for the issue of the new share,

(f) the agreement shall be deemed to have been entered into between the new corporation and the particular person at the particular time,

(g) the new share shall be deemed to be a flow-through share of the new corporation, and

(h) the new corporation shall be deemed to be the same corporation as, and a continuation of, the predecessor corporation."

(11) Subsection 87(9) of the said Act is amended by adding thereto, immediately after paragraph (a) therefor, the following paragraphs:

"(a.1) for the purposes of subsections (4.1) and (4.2), a parent share issued to a shareholder in consideration for the disposition of a share of a class of the capital stock of a predecessor corporation shall be deemed to be a share of a class of the capital stock of the new corporation that was issued in consideration for the disposition of a share of a class of the capital stock of a predecessor corporation by that shareholder;

(a.2) for the purposes of subsection (4.3), a right listed on a prescribed stock exchange to acquire a share of a class of the capital stock of the parent shall be deemed to be a right listed on a prescribed stock exchange to acquire a share of a class of the capital stock of the new corporation;"

(12) Subsection (1) is applicable with respect to amalgamations occurring after 1988 except that, in its application with respect to property acquired from a

predecessor corporation the last taxation year of which commenced before 1989, the reference to "paragraph 28(1)(b) or (c)" in paragraph 87(2)(b) of the said Act, as amended by subsection (1), shall be read as a reference to "paragraph 28(1)(b)".

(13) Subsection (2) is applicable to taxation years commencing after June 17, 1987 that end after 1987.

(14) Subsection (3) is applicable with respect to amalgamations occurring and windings-up commencing after 1985.

(15) Subsections (4), (5) and (8) are applicable with respect to amalgamations occurring and windings-up commencing after 1989.

(16) Subsection (6) is applicable with respect to the computation after Announcement Date of capital dividend accounts.

(17) Subsection (7) is applicable with respect to amalgamations occurring after Announcement Date and where the corporation so elects by notifying the Minister of National Revenue in writing before 1993, with respect to amalgamations occurring after 1986.

(18) Subsection (9) is applicable to the 1988 and subsequent taxation years.

(19) Subsection (10) is applicable with respect to amalgamations occurring after February 1986.

(20) Subsection (11) is applicable with respect to amalgamations and mergers occurring after 1986.

65. (1) Subparagraph 88(1)(a)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) in the case of any eligible capital property, an amount equal to 4/3 of the cost amount to the subsidiary of such property immediately before the winding-up, and"

(2) Paragraph 88(1)(a.2) of the said Act is repealed and the following substituted therefor:

"(a.2) each interest of the subsidiary in a partnership that was distributed to the parent on the winding-up shall, except for the purposes of paragraph 98(5)(g), be deemed not to have been disposed of by the subsidiary;"

(3) Subparagraph 88(1)(c)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) in any other case, the amount, if any, by which

(A) the amount deemed by paragraph (a) to be the proceeds of disposition of the property

exceeds

(B) any reduction of the cost amount to the subsidiary of the property made by reason of paragraph 80(1)(b) on the winding-up,"

(4) All that portion of paragraph 88(1)(d) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(d) the amount determined under this paragraph in respect of each property that was a capital property (other than property transferred in the course of a reorganization described in paragraph 55(3)(b) in the course of which a dividend was received by a corporation to which subsection 55(2) would, but for paragraph 55(3)(b), apply where the winding-up of the subsidiary was part of a transfer, directly or indirectly, of property of a particular corporation to a transferee, within the meaning assigned by paragraph 55(3)(b), property transferred to the subsidiary by the parent or by any person or partnership that was not, otherwise than by reason of a right referred to in paragraph 251(5)(b), dealing at arm's length with the parent, or a depreciable property) owned by the subsidiary at the time that the parent last acquired control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, is such portion of the amount, if any, by which the aggregate determined under subparagraph (b)(ii) exceeds the aggregate of"

(5) Clause 88(1)(d)(i)(C) of the said Act is repealed and the following substituted therefor:

"(C) the amount of any reserve (other than a reserve referred to in paragraph 20(1)(n), subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) or subsection 64(1) or (1.1)) deducted in computing the subsidiary's income for its taxation year during which its assets were distributed to the parent on the winding-up, and"

(6) All that portion of subparagraph 88(1)(d)(i.1) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(i.1) the aggregate of all amounts each of which is an amount in respect of any share of the capital stock of the



subsidiary disposed of by the parent on the winding-up or in contemplation of the winding-up, equal to the aggregate of all amounts received by the parent or by a corporation with which the parent was not dealing at arm's length (otherwise than by reason of a right referred to in paragraph 251((5)(b) in respect of the subsidiary) in respect of"

(7) All that portion of paragraph 88(1)(e.2) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(e.2) paragraphs 87(2)(c), (d.1), (e.1), (g) to (l), (l.3) to (u), (x), (y.1), (z.1), (z.2), (cc), (ll) to (nn), (pp), (rr), and (tt), subsection 87(6) and, subject to section 78, subsection 87(7) apply to the winding-up as if the references therein to"

(8) Subparagraphs 88(1)(e.2)(xi) and (xii) of the said Act are repealed.

(9) All that portion of paragraph 88(1)(e.8) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(e.8) for the purposes of subsection 127(10.1), the definition "qualifying corporation" in subsection 127.1(2) and subparagraph 157(1)(b)(i),"

(10) All that portion of subsection 88(1.1) of the said Act following paragraph (a) thereof and preceding paragraph (c) thereof is repealed and the following substituted therefor:

"(b) would have been deductible in computing the taxable income of the subsidiary for any taxation year commencing after the commencement of the winding-up, on the assumption that it had such a taxation year and that it had sufficient income for that year,

shall for the purposes of this subsection, paragraphs 111(1)(a), (c), (d) and (e), subsection 111(3) and Part IV,"

(11) Paragraph 88(1.1)(e) of the said Act is amended by adding thereto, immediately after subparagraph (ii) thereof, the following:

"and for the purposes of this paragraph where this subsection was applicable to the winding-up of another corporation in respect of which the subsidiary was the parent and this paragraph applied in respect of losses of that other corporation, the subsidiary shall be deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses; and"

(12) Subsection 88(1.1) of the said Act is further amended by adding the word "and" at the end of paragraph (e) thereof and by adding thereto the following paragraph:

"(f) any portion of a loss of the subsidiary that would otherwise be deemed by reason of paragraph (c), (d) or (d.1) to be a loss of the parent for a particular taxation year commencing after the commencement of the winding-up shall be deemed, for the purpose of computing the parent's taxable income for taxation years commencing after the commencement of the winding-up, to be such a loss of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year."

(13) All that portion of subsection 88(1.2) of the said Act following paragraph (a) thereof is repealed and the following substituted therefor:

"(b) would have been deductible in computing the taxable income of the subsidiary for any taxation year commencing after the commencement of the winding-up, on the assumption that it had such a taxation year and that it had sufficient income and taxable capital gains for that year,

shall, for the purposes of this subsection, paragraph 111(1)(b) and subsection 111(3), be deemed to be a net capital loss of the parent for its taxation year in which the particular taxation year of the subsidiary ended, except that

(c) where at any time control of the parent or subsidiary has been acquired by a person or group of persons, no amount in respect of the subsidiary's net capital loss for a taxation year ending before that time is deductible in computing the parent's taxable income for a taxation year ending after that time, and

(d) any portion of a net capital loss of the subsidiary that would otherwise be deemed by reason of this subsection to be a loss of the parent for a particular taxation year commencing after the commencement of the winding-up shall be deemed, for the purposes of computing its taxable income for taxation years commencing after the commencement of the winding-up, to be a net capital loss of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year."

(14) Section 88 of the said Act is further amended by adding thereto, immediately after subsection (1.5) thereof, the following subsection:

Idem

"(1.6) Where a corporation that carries on a farming business and computes its income from that business in accordance with the cash method is wound up in circumstances to which subsection (1) applies and, at the time that is immediately before the winding-up of the corporation, owned inventory that was used in connection with that business,

(a) for the purposes of subparagraph (1)(a)(iii), the cost amount to the corporation at that time of property purchased by it that is included in that inventory shall be deemed to be the amount determined by the formula

$$(A \times \frac{B}{C}) + D$$

where

A is the amount, if any, that would be included by reason of paragraph 28(1)(c) in computing the corporation's income for its last taxation year commencing before that time if that year had ended at that time,

B is the value (determined in accordance with subsection 28(1.2)) to the corporation at that time of the purchased inventory that is distributed to the parent on the winding-up,

C is the value (determined in accordance with subsection 28(1.2)) of all of the inventory purchased by the corporation that was owned by it in connection with that business at that time, and

D is the lesser of

(i) such additional amount as the corporation designates in respect of the property, and

(ii) the amount, if any, by which the fair market value of the property at that time exceeds the amount determined under subparagraph (i) in respect of the property;

(b) for the purpose of subparagraph 28(1)(a)(i), the disposition of the inventory and the receipt of the proceeds of disposition therefor shall be deemed to have occurred at that time and in the course of carrying on the business; and



(c) where the parent of the corporation computes its income in accordance with the cash method, an amount equal to the cost to the parent of the inventory shall, for the purpose of subparagraph 28(1)(e)(i), be deemed to have been paid by the parent at that time and in the course of carrying on the business."

(15) Paragraph 88(2)(a) of the said Act is amended by adding thereto, immediately after subparagraph (i) thereof, the following subparagraph:

"(i.1) capital gains dividend account (within the meaning assigned by paragraph 131(6)(b)), where the corporation is an investment corporation,"

(16) Paragraph 88(2)(a) of the said Act is further amended by adding the word "and" at the end of subparagraph (iv) thereof, by striking out the word "and" at the end of subparagraph (v) thereof and by repealing subparagraph (vi) thereof.

(17) Subparagraph 88(2)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) such portion of the winding-up dividend as does not exceed the corporation's capital dividend account immediately before that time or capital gains dividend account immediately before that time, as the case may be, shall be deemed, for the purposes of an election in respect thereof under subsection 83(2), 131(1) (as that subsection applies for the purposes of section 130) or 133(7.1), as the case may be, and where the corporation has so elected, for all other purposes, to be the full amount of a separate dividend,"

(18) Subsection 88(2) of the said Act is further amended by adding the word "and" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) for the purposes of computing the income of the corporation for its taxation year that includes the particular time, paragraph 12(1)(t) shall be read as follows:

"(t) the amount deducted under subsection 127(5) or (6) in computing the taxpayer's tax payable for the year or a preceding taxation year to the extent that it was not included under this paragraph in computing the taxpayer's income for a preceding taxation year or is not included in an amount determined under paragraph 13(7.1)(e), subparagraph 13(21)(f)(vii), paragraph 37(1)(e) or subparagraph 53(2)(c)(vi) or (h)(ii) or 66.1(6)(b)(xi);".

(19) Subparagraph 88(3)(b)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) the aggregate of all amounts each of which is the amount of any debt owing by the disposing affiliate, or of any other obligation of the disposing affiliate to pay any amount, otherwise than as or on account of a dividend owing by the disposing affiliate to the taxpayer or to a person with whom the taxpayer was not dealing at arm's length, that was outstanding immediately before the dissolution and that was assumed or cancelled by the taxpayer on the dissolution."

(20) Subsection 88(4) of the said Act is repealed and the following substituted therefor:

Amalgamation deemed not to be acquisition of control

"(4) For the purposes of paragraphs (1)(c) and (d),

(a) subject to paragraph (c), control of any corporation shall be deemed not to have been acquired by reason of an amalgamation;

(b) any corporation formed as a result of an amalgamation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation; and

(c) in the case of an amalgamation described in subsection 87(9), control of a predecessor corporation that was not controlled by the parent before the amalgamation shall be deemed to have been acquired by the parent immediately before the amalgamation."

(21) Subsection (1) is applicable with respect to distributions of property on the winding-up of a subsidiary in a taxation year of the subsidiary commencing after June 30, 1988.

(22) Subsection (2) is applicable with respect to windings-up commencing after January 15, 1987.

(23) Subsections (3) and (14) are applicable with respect to windings-up commencing after Announcement Date.

(24) Subsection (4) is applicable with respect to windings-up commencing after September, 1988 except that, in its application with respect to windings-up commencing after September, 1988 and before Announcement Date, all that portion of paragraph 88(1)(d) of the said Act preceding subparagraph (i) thereof, as enacted by subsection (4), shall be read as follows:

"(d) the amount determined under this paragraph in respect of each property that was a capital property (other than property transferred in the course of a reorganization described in paragraph 55(3)(b) in the course of which a dividend was received by a corporation to which subsection 55(2) would, but for paragraph 55(3)(b), apply where the winding-up of the subsidiary was part of a transfer, directly or indirectly, of property of a particular corporation to a transferee, within the meaning assigned by paragraph 55(3)(b), or a depreciable property) owned by the subsidiary at the time that the parent last acquired control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, is such portion of the amount, if any, by which the aggregate determined under subparagraph (b)(ii) exceeds the aggregate of"

(25) Subsection (5) is applicable with respect to windings-up commencing after 1989.

(26) Subsections (6), (16) and (18) are applicable with respect to windings-up commencing after 1987.

(27) Subsection (7) is applicable with respect to windings-up ending after June 18, 1987, except that

(a) in its application with respect to windings-up commencing before 1988, paragraph 88(1)(e.2) of the said Act, as amended by subsection (7), should be read without reference to "(tt)" therein; and

(b) in its application with respect to windings-up commencing before May, 1988, paragraph 88(1)(e.2) of the said Act, as amended by subsection (7), shall be read without reference to "(z.2)" therein.

(28) Subsection (8) is applicable with respect to the computation after Announcement Date of capital dividend accounts.

(29) Subsection (9) is applicable with respect to windings-up commencing after May 23, 1985.

(30) Subject to subsection 152(4) of the said Act, subsections (10), (12) and (13) are applicable in computing the taxable income of parent corporations for the 1985 and subsequent taxation years except that a parent corporation

(a) may elect in accordance with paragraph 88(1.1)(f) of the said Act, as enacted by subsection (12), with respect to any of its 1985 to 1991 taxation years by so notifying the Minister of National Revenue in writing within 6 months after the day on which this Act is assented to; and



(b) may elect in accordance with paragraph 88(1.2)(d) of the said Act, as enacted by subsection (13), with respect to any of its 1985 to 1991 taxation years by so notifying the Minister of National Revenue in writing within 6 months after the day on which this Act is assented to.

(31) Subsection (11) is applicable in computing taxable income for the 1990 and subsequent taxation years.

(32) Subsections (15) and (17) are applicable with respect to windings-up commencing after 1988.

(33) Subsection (19) is applicable with respect to dissolutions occurring after Announcement Date.

(34) Subsection (20) is applicable with respect to windings-up commencing after March 1977.

66. (1) All that portion of subclause 89(1)(b)(i)(A)(III) of the said Act preceding sub-subclause 2 thereof is repealed and the following substituted therefor:

"(III) the portion of the amount, if any, by which the amount determined under subclause (I) exceeds the amount determined under subclause (II) from the disposition by it of a property that may reasonably be regarded as having accrued while the property, or a property for which it was substituted,

1. except in the case of a disposition of a designated property, was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),"

(2) All that portion of subclause 89(1)(b)(i)(B)(III) of the said Act preceding sub-subclause 2 thereof is repealed and the following substituted therefor:

"(III) the portion of the amount, if any, by which the amount determined under subclause (I) exceeds the amount determined under subclause (II) from the disposition by it of a property that may

reasonably be regarded as having accrued while the property, or a property for which it was substituted,

1. except in the case of a disposition of a designated property, was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),"

(3) Subparagraph 89(1)(c)(ii) of the said Act is amended by striking out the word "and" at the end of clause (C) thereof and by adding thereto the following:

"except that, where the corporation is a cooperative corporation (within the meaning assigned by subsection 136(2)) or a credit union and the statute by or under which it was incorporated does not provide for paid-up capital in respect of a class of shares, the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act, shall be deemed to be the amount, if any, by which

(D) the total of the amounts received by the corporation in respect of shares of that class issued and outstanding at that time

exceeds

(E) the total of all amounts each of which is an amount or part thereof described in clause (D) repaid by the corporation to shareholders of that class of shares before that time, and"

(4) All that portion of paragraph 89(1)(f) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"private corporation"  
«*corporation privée*»

"(f) "private corporation" at any particular time means a corporation that, at the particular time, was resident in Canada, was not a public corporation and was not controlled by one or more public corporations (other than prescribed venture capital corporations) or prescribed federal Crown corporations or by any

combination thereof and, for greater certainty, for the purposes of determining at any particular time when a corporation last became a private corporation,"

(5) Subsections (1) and (2) are applicable to taxation years ending after November 26, 1987.

(6) Subsection (3) is applicable after 1988.

(7) Subsection (4) is applicable after Announcement Date.

67. (1) Section 91 of the said Act is amended by adding thereto the following subsection:

Idem

"(6) Where a share of the capital stock of a foreign affiliate of a taxpayer that is a taxable Canadian corporation has been acquired by the taxpayer from another corporation resident in Canada with which the taxpayer was not dealing at arm's length, for the purpose of subsection (5), any amount required to be added or deducted, as the case may be, by section 92 in computing the adjusted cost base to the other corporation of the share shall be deemed to have been so required to be added or deducted, as the case may be, in computing the adjusted cost base to the taxpayer of the share."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

68. (1) Subsection 93(1) of the said Act is repealed and the following substituted therefor:

Election re disposition of share in foreign affiliate

"93.(1) For the purposes of this Act, where a corporation resident in Canada has so elected, in prescribed manner and within the prescribed time, in respect of any share of the capital stock of a foreign affiliate of the corporation disposed of by it or by another foreign affiliate of the corporation, the following rules apply:

(a) the amount (in this subsection referred to as the "elected amount") designated by the corporation in its election not exceeding the proceeds of disposition of the share shall be deemed to have been a dividend received on the share from the affiliate by the disposing corporation or disposing affiliate, as the case may be, immediately before the disposition and not to have been proceeds of disposition; and



(b) where subsection 40(3) applies to the disposing corporation or disposing affiliate, as the case may be, in respect of the share,

(i) the amount deemed by that subsection to be the gain of the disposing corporation or disposing affiliate, as the case may be, from the disposition of the share shall, except for the purposes of paragraph 53(1)(a), be deemed to be equal to the amount, if any, by which

(A) the amount deemed to be the gain under that subsection from the disposition of the share determined without reference to this subparagraph

exceeds

(B) the elected amount, and

(ii) for the purposes of determining the exempt surplus, exempt deficit, taxable surplus, taxable deficit and underlying foreign tax of the affiliate in respect of the corporation resident in Canada (within the meaning assigned by the Regulations for the purpose of section 95) the affiliate shall be deemed at the time of disposition to have redeemed shares of a class of its capital stock."

(2) All that portion of subsection 93(2) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"the amount of the loss of the disposing corporation from the disposition of the share shall be deemed to be the amount, if any, by which

(c) the amount that would be the loss of the disposing corporation therefrom if this Act were read without reference to this subsection

exceeds

(d) the amount, if any, by which

(i) the total of all amounts received before the disposition of the share in respect of exempt dividends on the share or a share for which the share was substituted by

(A) the disposing corporation,

(B) a corporation related to the disposing corporation,

(C) a foreign affiliate of the disposing corporation, or

(D) a foreign affiliate of a corporation related to the disposing corporation

exceeds

(ii) the total of all amounts each of which is the amount by which a loss from a previous disposition of the share or a share for which the share was substituted by a corporation referred to in clauses (i)(A) to (D) has been reduced by reason of this subsection."

(3) Paragraph 93(4)(b) of the said Act is repealed and the following substituted therefor:

"(b) in computing the adjusted cost base to the vendor of all shares of any particular class of the capital stock of the acquired affiliate owned by the vendor immediately after the disposition, there shall be added an amount determined by the formula

$$(A - B) \times \frac{C}{D}$$

where

A is the cost amount to the vendor immediately before the disposition of the shares disposed of,

B is the total of

(i) the proceeds of disposition of the shares disposed of, and

(ii) the total of all amounts each of which is an amount deducted under paragraph (2)(d) in computing a loss of the vendor from the disposition of the shares disposed of,

C is the fair market value, immediately after the disposition, of all shares of that particular class owned by it at that time, and

D is the fair market value, immediately after the disposition, of all shares of the capital stock of the acquired affiliate owned by it at that time."

(4) Subsection (1) is applicable to the 1987 and subsequent taxation years.

(5) Subject to subsection 152(4) of the said Act, subsection (2) is applicable with respect to the determination of losses arising in the 1985 and subsequent taxation years, except that in its application to such losses from dispositions occurring before Announcement Date paragraph 93(2)(d) of the said Act, as enacted by subsection (2), shall be read as follows:

"(d) the total of all amounts in respect of exempt dividends received by the disposing corporation on the share at any time before the disposition."

(6) Subsections (3) is applicable with respect to dispositions of shares occurring after Announcement Date.

69. (1) Subparagraph 94(1)(b)(i) of the said Act is amended by striking out the word "or" at the end of clause (C) thereof and by adding thereto the following clause:

"(E) governed by a foreign retirement arrangement, or"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

70. (1) Paragraph 95(1)(a) of the said Act is amended by striking out the word "or" at the end of subparagraph (ii) thereof and by repealing subparagraph (iii) thereof and substituting the following therefor:

"(iii) a person or persons with whom the taxpayer does not deal at arm's length, or

(iv) the taxpayer and a person or persons with whom the taxpayer does not deal at arm's length;"

(2) All that portion of paragraph 95(1)(a.1) of the said Act following subparagraph (iii) thereof is repealed and the following substituted therefor:

"and for the purpose of paragraphs (d) and (4)(a) as they apply to this paragraph, where at any time a foreign affiliate of a taxpayer has an interest in a partnership,



(iv) the partnership shall be deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares, and

(v) the affiliate shall be deemed to own at that time that proportion of the issued shares of that class that

(A) the fair market value of the affiliate's interest in the partnership at that time

is of

(B) the fair market value of all interests in the partnership at that time;"

(3) Subparagraph 95(1)(b)(i) of the said Act is amended by striking out the word "or" at the end of clause (B) thereof, by adding the word "or" at the end of clause (C) thereof and by adding thereto the following clause:

"(D) any amount included in the affiliate's income by reason of subsection 80.4(2) in respect of indebtedness to another corporation that is a foreign affiliate of the taxpayer or of a person resident in Canada with whom the taxpayer does not deal at arm's length,"

(4) All that portion of subparagraph 95(2)(a)(ii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(ii) any amount paid or payable to the affiliate by, and, where the affiliate is a member of a partnership, the affiliate's share of any amount paid or payable to the partnership by"

(5) Paragraph 95(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) where a controlled foreign affiliate of a taxpayer provides services or an undertaking to provide services and

(i) the amount paid or payable in consideration therefor

(A) is deductible in computing the income from a business carried on in Canada by any person in relation to which the affiliate is a controlled foreign affiliate or by a person related to that person, or

(B) was paid or payable by a person other than the taxpayer and may reasonably be considered to relate to an amount that was deductible by the taxpayer or a person related to the taxpayer in computing the income of such taxpayer or person from a business carried on in Canada, or

(ii) the services are performed or are to be performed by any person referred to in subparagraph (i) who is an individual resident in Canada,

the provision of such services or undertaking to provide such services shall be deemed to be a separate business other than an active business carried on by the affiliate and any income from that business or that pertains to or is incident to that business shall be deemed to be income from a business other than an active business;"

(6) All that portion of paragraph 95(2)(d.1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(d.1) where there has been a foreign merger of two or more predecessor foreign corporations in respect of each of which a taxpayer's surplus entitlement percentage was not less than 90% immediately before the merger to form a new foreign corporation in respect of which the taxpayer's surplus entitlement percentage immediately after the merger was not less than 90%, other than a foreign merger where, under the income tax law of the country in which the predecessor foreign corporations were resident immediately before the merger, a gain or loss was recognized in respect of any capital property of a predecessor foreign corporation that became capital property of the new foreign corporation in the course of the merger, the following rules apply:"

(7) All that portion of paragraph 95(2)(e.1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(e.1) where there has been a liquidation and a dissolution of a foreign affiliate (in this paragraph referred to as the "disposing affiliate") of a taxpayer in respect of which, immediately before the liquidation, the taxpayer's surplus entitlement percentage was not less than 90%, other than a liquidation and a dissolution where, under the income tax law of the country in which the disposing affiliate was resident immediately before the liquidation, a gain or loss was recognized by the disposing affiliate in respect of any capital property distributed by it in the course of the liquidation

to another foreign affiliate of the taxpayer resident in that country, the following rules apply:"

(8) Subparagraph 95(2)(f)(i) of the said Act is repealed and the following substituted therefor:

"(i) where such gain or loss is the gain or loss of a controlled foreign affiliate from the disposition of property to which paragraph 88(3)(a) or paragraph (c), (d) or (e) applies or from any other disposition of property (other than excluded property), in Canadian currency, and"

(9) Subsections (1) and (5) are applicable to taxation years commencing after Announcement Date.

(10) Subsection (2) is applicable after 1989.

(11) Subsection (3) and (4) are applicable to the 1987 and subsequent taxation years.

(12) Subsection (6) is applicable with respect to foreign mergers occurring after 1989.

(13) Subsection (7) is applicable with respect to liquidations commencing after 1989.

(14) Subsection (8) is applicable with respect to dispositions of property occurring after Announcement Date.

71. (1) All that portion of paragraph 96(2.2)(d) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(d) where the taxpayer or a person with whom the taxpayer does not deal at arm's length is entitled, either immediately or in the future and either absolutely or contingently, to receive or obtain any amount or benefit, whether by way of reimbursement, compensation, revenue guarantee or proceeds of disposition or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain by reason of being a member of the partnership or by reason of holding or disposing of an interest in the partnership, the amount or benefit, as the case may be, that the taxpayer or the person is or will be so entitled to receive or obtain, except to the extent that the amount or benefit is included under subparagraph 66.1(6)(b)(ix), 66.2(5)(b)(xi) or 66.4(5)(b)(viii) in respect of the taxpayer or the entitlement arises"



(2) Paragraph 96(2.2)(d) of the said Act is further amended by striking out the word "or" at the end of subparagraph (v) thereof, by adding the word "or" at the end of subparagraph (vi) thereof, and by adding thereto the following subparagraph:

"(vii) by reason of an excluded obligation (as defined in subsection 6202.1(5) of the *Income Tax Regulations*) in relation to a share issued to the partnership by a corporation,"

(3) All that portion of subsection 96(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Election by members

"(3) Where a taxpayer who was a member of a partnership during a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an election under any of section 22, subsections 13(4), (15) and (16), 14(6), 20(9), 21(1) to (4) and 29(1), section 34 and subsections 44(1) and (6) and 97(2) that, but for this subsection would be a valid election, the following rules apply:"

(4) Subsections (1) and (2) are applicable to taxation years ending after June 17, 1987.

(5) Subsection (3) is applicable with respect to dispositions occurring after Announcement Date.

72. (1) All that portion of paragraph 98(1)(c) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"the amount of the excess shall be deemed to be a gain of the taxpayer for the taxation year of the taxpayer that includes that time from a disposition at that time, of that interest and, for the purposes of section 110.6, that interest shall be deemed to have been disposed of by the taxpayer in that year."

(2) Subparagraph 98(5)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) the aggregate of the adjusted cost base to the proprietor, immediately before the particular time, of the proprietor's interest in the partnership, and the adjusted cost base to the proprietor of each other interest in the partnership deemed by paragraph (g) to have been acquired by the proprietor at the particular time, and"

(3) Subsection (1) is applicable to the 1985 and subsequent taxation years.

(4) Subsection (2) is applicable with respect to partnerships ceasing to exist after January 15, 1987.

73. (1) All that portion of paragraph 98.1(1)(c) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"the amount of the excess shall be deemed to be a gain of the taxpayer for the taxation year of the taxpayer that includes that time from a disposition at that time of that residual interest and, for the purposes of section 110.6, that residual interest shall be deemed to have been disposed of by the taxpayer in that year;  
and"

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

74. (1) The description of "C" in paragraph 104(21.2)(b) of the said Act is repealed and the following substituted therefor:

"C is the greater of

(i) the total of all amounts each of which is the amount used for B under this paragraph in respect of a beneficiary of the trust for the designation year, and

(ii) the amount, if any, by which the net taxable capital gains of the trust for the designation year exceeds the amount, if any, by which

(A) the investment expense (within the meaning assigned by subsection 110.6(1)) of the trust for the designation year

exceeds

(B) the investment income (within the meaning assigned by subsection 110.6(1)) of the trust for the designation year,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

75. (1) Paragraph 107(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) where the trust is a personal trust or a prescribed trust, for the purposes of computing the taxpayer's taxable capital gain, if any, from the disposition of the interest or part thereof, as the case may be, the adjusted cost base to the taxpayer thereof immediately before the disposition shall be deemed to be an amount equal to the greater of the adjusted cost base to the taxpayer thereof otherwise determined immediately before that time and the cost amount to the taxpayer thereof immediately before that time,"

(2) Subsection 107(2) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) where the property so distributed was eligible capital property of the trust in respect of a business of the trust,

(i) the references to "its cost amount" in paragraphs (a) and (b) shall be read as references to " $\frac{4}{3}$  of its cost amount", and

(ii) where the eligible capital expenditure of the trust in respect of the property exceeds the cost at which the taxpayer is deemed by this subsection to have acquired the property, for the purposes of sections 14, 20 and 24

(A) the eligible capital expenditure of the taxpayer in respect of the property shall be deemed to be the amount that was the eligible capital expenditure of the trust in respect of the property, and

(B)  $\frac{3}{4}$  of the excess shall be deemed to have been allowed to the taxpayer in respect of the property under paragraph 20(1)(b) in computing income for taxation years ending

(I) before the acquisition by the taxpayer of the property, and

(II) after the adjustment time (within the meaning assigned by paragraph 14(5)(c)) of the taxpayer in respect of the business."

(3) Section 107 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Principal residence distribution by spousal trust



"(2.01) Where at any time (in this subsection referred to as "that time") a property has been distributed by a trust described in subsection 70(6) or 73(1) to a taxpayer in circumstances to which subsection (2) applies and subsection (4) does not apply and the property would, if the trust had designated the property under paragraph 54(g), be a principal residence (within the meaning assigned by that paragraph) of the trust for a taxation year, the following rules apply where the trust so elects in its return of income under this Part for the taxation year that includes that time:

(a) the trust shall be deemed to have disposed of the property immediately before the particular time that is immediately before that time for proceeds of disposition equal to the fair market value of the property at that time; and

(b) the trust shall be deemed to have reacquired the property at the particular time at a cost equal to that fair market value."

(4) Subsection (1) is applicable with respect to dispositions occurring after 1987, other than a disposition of an interest in a trust, the units of which were listed on October 1, 1987 on a prescribed stock exchange, before the earlier of

(a) January 1, 1991, and

(b) any date after October 1, 1987 on which a beneficial interest in the trust is issued.

(5) Subsection (2) is applicable with respect to distributions made after Announcement Date.

(6) Subsection (3) is applicable in respect of distributions occurring after May 9, 1985, except that an election to have subsection 107(2.01) of the said Act, as enacted by subsection (3), apply in respect of a distribution by a trust occurring after May 9, 1985 and on or before the day on which this Act is assented to may be made by the trust by notifying the Minister of National Revenue in writing before April 1, 1992 and, notwithstanding subsections 152(4) to (5) of the said Act, such assessments and reassessments of tax, interest and penalties shall be made as are necessary to give effect to the election.

76. (1) Subparagraphs 108(1)(d)(i) and (ii) of the said Act are repealed and the following substituted therefor:

"(i) where any money or other property of the trust has been distributed by the trust to the taxpayer in satisfaction of all or part of the taxpayer's capital interest (whether on the winding-up of the trust or otherwise), the total of

(A) the money so distributed,

(B) all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such other property (other than eligible capital property in respect of a business of the trust), and

(C) all amounts each of which is  $\frac{4}{3}$  of the cost amount to the trust, immediately before the distribution, of each such other property that is eligible capital property in respect of a business of the trust, and

(ii) in any other case, the amount determined by the formula,

$$(A - B) \times \frac{C}{D}$$

where

A is the total of

(I) all money of the trust on hand immediately before that time,

(II) all amounts each of which is the cost amount to the trust, immediately before that time, of each other property of the trust (other than eligible capital property in respect of a business of the trust), and

(III)  $\frac{4}{3}$  of the total of all amounts each of which is the cumulative eligible capital of the trust, immediately before that time, in respect of a business of the trust,

B is the total of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time,

C is the fair market value at that time of the capital interest or part thereof, as the case may be, in the trust, and

D is the fair market value at the time of all capital interests in the trust;"

(2) Subparagraph 108(1)(j)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) a trust governed by a registered pension plan, a foreign retirement arrangement, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered retirement income fund or an employee benefit plan, an employee trust or a trust described in paragraph 149(1)(o.4),"

(3) Subparagraph 108(2)(b)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) not less than 95% of its income (determined without reference to subsections 49(2.1) and 104(6)) for the year was derived from, or from dispositions of, investments described in subparagraph (iii),"

(4) Subsection (1) is applicable after Announcement Date.

(5) Subsections (2) and (3) are applicable to the 1990 and subsequent taxation years.

77. (1) Paragraph 110(1)(d) of the said Act is repealed and the following substituted therefor:

Employee stock options

"(d) where, after February 15, 1984,

(i) a corporation has agreed to sell, issue or cause to be issued to the taxpayer a share of its capital stock or of the capital stock of another corporation with which it does not deal at arm's length,

(ii) the share was a prescribed share at the time of its sale or issue, as the case may be, or, where the taxpayer has disposed of rights under the agreement, the share would have been a prescribed share if it were issued or sold to the taxpayer at the time the taxpayer disposed of such rights,



(iii) the amount payable by the taxpayer to acquire the share under the agreement is not less than the fair market value of the share at the time the agreement was made or, where the rights under the agreement were acquired by the taxpayer as a result of one or more dispositions of rights in respect of which subsection 7(1.4) applied, the amount payable by the taxpayer to acquire the old share under the original option that was disposed of in consideration for a new option in the first such disposition was not less than the fair market value of the old share at the time that the agreement in respect of the original option was made, and

(iv) at the time immediately after the agreement was made and, where the rights under the agreement were acquired by the taxpayer as a result of one or more dispositions in respect of which subsection 7(1.4) applied, at the time that the agreement in respect of the original option was made and at the time immediately after each disposition, the taxpayer was dealing at arm's length with the corporation, the other corporation and the corporation of which the taxpayer is an employee,

an amount equal to 1/4 of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of the share or the transfer or other disposition of the rights under the agreement;"

(2) Paragraph 110(1)(f) of the said Act is repealed and the following substituted therefor:

Deductions for payments

"(f) any amount included by reason of paragraph 56(1)(u) in computing the taxpayer's income for the year or any amount that is

(i) an amount exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada, or

(ii) compensation received under an employees' or workmen's compensation law of Canada or a province in respect of an injury, disability or death, except any such compensation received by a person as the employer or former employer of the person in respect of whose injury, disability or death the compensation was paid,

to the extent that it has been included in computing the taxpayer's income for the year;"

(3) Paragraph 110(1)(i) of the said Act is repealed.

(4) Section 110 of the said Act is further amended by adding thereto, immediately after subsection (1.4) thereof, the following subsection:

Value of share under stock option

"(1.5) For the purposes of subparagraph (1)(d)(iii), the fair market value of a share of the capital stock of a corporation at the time an agreement in respect of the share was made shall be determined on the assumption that

(a) any subdivision or consolidation of shares of the capital stock of the corporation,

(b) any reorganization of share capital of the corporation, and

(c) any stock dividend of the corporation

occurring after the agreement was made and before the share was acquired had taken place immediately before the agreement was made."

(5) Subsections (1) and (4) are applicable to the 1988 and subsequent taxation years except that, in the application of paragraph 110(1)(d) of the said Act, as enacted by subsection (1), with respect to shares acquired or rights in respect of shares transferred or otherwise disposed of before 1990, the reference therein to "1/4" shall be read as a reference to "1/3".

(6) Subsection (2) is applicable to the 1991 and subsequent taxation years.

(7) Subsection (3) is applicable to the 1989 and subsequent taxation years.

78. (1) Subsection 110.1(1) of the said Act is repealed and the following substituted therefor:

Deduction for gifts

"110.1(1) For the purpose of computing the taxable income of a corporation for a taxation year, there may be deducted such of the following amounts as are applicable:

Charitable gifts

(a) the total of all amounts each of which is the fair market value of a gift made by the corporation in the year (or in any of the 5 immediately preceding taxation years to the extent that the amount thereof was not deducted in computing its taxable income for any preceding taxation year) to

(i) a registered charity,

(ii) a registered Canadian amateur athletic association,

(iii) a housing corporation resident in Canada and exempt from tax under this Part by reason of paragraph 149(1)(i),

(iv) a Canadian municipality,

(v) the United Nations or an agency thereof,

(vi) a university outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada, or

(vii) a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift during the corporation's taxation year or the 12 months immediately preceding that taxation year,

not exceeding 20% of its income for the year computed without reference to subsection 137(2);

#### Gifts to Her Majesty

(b) the total of all amounts each of which is the fair market value of a gift made by the corporation in the year (or in any of the 5 immediately preceding taxation years to the extent that the amount thereof was not deducted in computing its taxable income for any preceding taxation year) to Her Majesty in right of Canada or a province, not exceeding the amount remaining, if any, after the amount deducted for the year under paragraph (a) by the corporation is deducted in computing its taxable income for the year; and



## Gifts to institutions

(c) the total of all amounts each of which is the fair market value of a gift (other than a gift in respect of which an amount is or was deducted under paragraph (a) or (b)) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the Cultural Property Export and Import Act, which gift was made by the corporation in the year (or in any of the 5 immediately preceding taxation years to the extent that the amount thereof was not deducted in computing its taxable income for any preceding taxation year) to an institution or a public authority in Canada that was, at the time the gift was made, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object, not exceeding the amount remaining, if any, after the amounts deducted for the year under paragraphs (a) and (b) by the corporation are deducted in computing its taxable income for the year."

(2) Subsection (1) is applicable after December 11, 1988.

79. (1) Subparagraph 110.4(8)(b)(ii) of the English version of the said Act is repealed and the following substituted therefor:

"(ii) the amount determined under subparagraph (a)(i) for the year, in any other case; and"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

80. (1) The definition "interest in a family farm partnership" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"interest in a family farm partnership"  
*«participation dans une société agricole familiale»*

"interest in a family farm partnership" of an individual (other than a trust that is not a personal trust) at any time means an interest owned by the individual at that time in a partnership where,

(a) throughout any 24 month period ending before that time, all or substantially all of the fair market value of the property of the partnership was attributable to property used by

(i) the partnership,

(ii) the individual,

(iii) where the individual is a personal trust, a beneficiary of the trust,

(iv) a spouse, child or parent of a person referred to in subparagraph (ii) or (iii), or

(v) a corporation, a share of the capital stock of which was a share of the capital stock of a family farm corporation of an individual referred to in subparagraph (ii), (iii) or (iv)

principally in the course of carrying on the business of farming in Canada in which any individual referred to in subparagraph (ii), (iii) or (iv) was actively engaged on a regular and continuous basis, and

(b) at that time, all or substantially all of the fair market value of the property of the partnership was attributable to property that has been used principally in the course of carrying on the business of farming in Canada by the partnership or a person referred to in paragraph (a);"

(2) Paragraphs (a) and (b) of the definition "investment expense" in subsection 110.6(1) of the said Act are repealed and the following substituted therefor:

"(a) the aggregate of all amounts each of which is an amount deducted in computing the individual's income for the year from property (except to the extent that the amount was otherwise taken into account in computing the individual's investment expense or investment income for the year) other than any such amount deducted under

(i) paragraph 20(1)(c), (d), (e), (e.1) or (k) in respect of borrowed money that was used by the individual to or that was used to acquire property that was used by the individual

(A) to make a payment as consideration for an income-averaging annuity contract,

(B) to pay a premium under a registered retirement savings plan, or

(C) to make a contribution to a registered pension fund or plan or a deferred profit sharing plan, or

(ii) paragraph 20(1)(j) or subsection 65(1), 66(4), 66.1(3), 66.2(2) or 66.4(2),

(b) the aggregate of

(i) all amounts each of which is an amount deducted under paragraph 20(1)(c), (d), (e), (e.1) (f), (k) or (bb) in computing the individual's income for the year from a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year, and

(ii) all amounts deducted under subparagraph 20(1)(e)(vi) in computing the individual's income for the year in respect of an expense incurred by a partnership of which the individual was a specified member in the fiscal period of the partnership ending immediately before it ceased to exist,"

(3) Subparagraph (c)(i) of the definition "investment expense" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"(i) all amounts (other than allowable capital losses) deducted in computing the individual's income for the year in respect of the individual's share of the amount of any loss of a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year, and"

(4) All that portion of paragraph (e) of the definition "investment expense" in subsection 110.6(1) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"owned by the individual or by a partnership of which the individual was a member, other than a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year;"

(5) The definition "investment income" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"investment income"  
*«revenu de placements»*

"investment income" of an individual for a taxation year means the total of



(a) all amounts included in computing the individual's income for the year from property (other than an amount included under subsection 15(2)), including, for greater certainty, any amount so included under subsection 13(1) in respect of a property any income from which would be income from property (except to the extent that the amount was otherwise taken into account in computing the individual's investment income or investment expense for the year),

(b) all amounts (other than taxable capital gains) included in computing the individual's income for the year in respect of the individual's share of the income of a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year, including, for greater certainty, the individual's share of all amounts included under subsection 13(1) in computing the income of the partnership,

(c) 50% of all amounts included in computing the individual's income for the year under subsection 59(3.2), and

(d) all amounts each of which is the amount of the individual's income for the year from

(i) a property, or

(ii) renting or leasing a rental property (within the meaning assigned by subsection 1100(14) of the *Income Tax Regulations*) or a property described in Class 31 or 32 of Schedule II to the *Income Tax Regulations*

owned by the individual or by a partnership of which the individual was a member (other than a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year) including, for greater certainty, any amount included under subsection 13(1) in computing the individual's income for the year in respect of a rental property of the individual or the partnership or in respect of a property any income from which would be income from property, and

(e) the amount, if any, by which

(i) the total of all amounts (other than amounts in respect of income-averaging annuity contracts or annuity contracts purchased pursuant to deferred profit sharing plans or pursuant to plans referred to in subsection 147(15) as revoked plans) included under

paragraph 56(1)(d) or (d.1) in computing the individual's income for the year

exceeds

(ii) the total of all amounts deducted under paragraph 60(a) in computing the individual's income for the year;"

(6) All that portion of paragraph (a) of the definition "qualified farm property" in subsection 110.6(1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) real property that has been used by"

(7) All that portion of paragraph (a) of the definition "qualified farm property" in subsection 110.6(1) of the said Act following subparagraph (v) thereof is repealed and the following substituted therefor:

"in the course of carrying on the business of farming in Canada and, for the purposes of this paragraph, property will not be considered to have been used in the course of carrying on the business of farming in Canada unless

(vi) the property or property for which the property was substituted (in this subparagraph referred to as "the property") was owned by an individual referred to in any of subparagraphs (i) to (iii), by a personal trust from which the individual acquired the property or by a partnership referred to in subparagraph (v) throughout a period of at least 24 months immediately preceding that time and

(A) in at least 2 years while the property was so owned the gross revenue of an individual referred to in any of subparagraphs (i) to (iii), or of a personal trust from which the individual acquired the property, from the farming business carried on in Canada in which the property was principally used and in which the individual or, where the individual is a personal trust, a beneficiary of the trust was actively engaged on a regular and continuous basis exceeded the income of the individual from all other sources for the year, or

(B) the property was used by a corporation referred to in subparagraph (iv) or a partnership referred to in subparagraph (v) principally in the

course of carrying on the business of farming in Canada throughout a period of at least 24 months during which time an individual referred to in any of subparagraphs (i) to (iii) was actively engaged on a regular and continuous basis in the farming business in which the property was used, or

(vii) where the property is a property last acquired by the individual or partnership before June 18, 1987, or after June 17, 1987 pursuant to an agreement in writing entered into before that date, the property or property for which the property was substituted (in this subparagraph referred to as "the property") was used by a person or partnership referred to in any of subparagraphs (i) to (v) or by a personal trust from which the individual acquired the property principally in the course of carrying on the business of farming in Canada

(A) in the year the property was disposed of by the individual, or

(B) in at least 5 years during which the property was owned by an individual referred to in any of subparagraphs (i) to (iii), by a personal trust from which the individual acquired the property or by a partnership referred to in subparagraph (v),"

(8) Paragraph (d) of the definition "qualified farm property" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"(d) an eligible capital property used by a person or partnership referred to in any of subparagraphs (a)(i) to (v), or by a personal trust from which the individual acquired the property, in the course of carrying on the business of farming in Canada and, for the purpose of this paragraph, eligible capital property

(i) will not be considered to have been used in the course of carrying on the business of farming in Canada unless the conditions set out in subparagraph (a)(vi) or (vii), as the case may be, are met, and

(ii) shall be deemed to include capital property to which paragraph 70(5.1)(b) applies,"

(9) Subparagraphs (c)(i) and (ii) of the definition "qualified small business corporation share" in subsection 110.6(1) of the said Act are repealed and the following substituted therefor:



"(i) assets used principally in an active business carried on primarily in Canada by the corporation or by a corporation related to it,

(ii) shares of the capital stock or indebtedness of one or more other corporations that were connected with the corporation (within the meaning of subsection 186(4) on the assumption that each of the other corporations was a "payer corporation" within the meaning of that subsection) where

(A) throughout that part of the 24 months immediately preceding the determination time that ends at the time the corporation acquired such a share or indebtedness, the share or indebtedness was not owned by anyone other than the corporation, a person or partnership related to the corporation or a person or partnership related to such a person or partnership, and

(B) throughout that part of the 24 months immediately preceding the determination time while such a share or indebtedness was owned by the corporation, a person or partnership related to the corporation or a person or partnership related to such a person or partnership, it was a share or indebtedness of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which was attributable to assets described in subparagraph (iii), or"

(10) Paragraph (d) to (f) of the definition "qualified small business corporation share" in subsection 110.6(1) of the said Act are repealed and the following substituted therefor:

"(d) where, for any particular period of time in the 24 month period ending at the determination time, all or substantially all of the fair market value of the assets of a particular corporation that is the corporation or another corporation that was connected with the corporation cannot be attributed to assets described in subparagraph (c)(i), shares or indebtedness of corporations described in clause (c)(ii)(B), or any combination thereof, the reference in clause (c)(ii)(B) to "more than 50%" shall, for the particular period of time, be read as a reference to "all or substantially all" in respect of each other corporation that was connected with the particular corporation and for the purposes of

this paragraph one corporation is connected with another corporation only where

(i) the corporation is connected with the other corporation within the meaning of subsection 186(4) on the assumption that the corporation was a "payer corporation" (within the meaning of that subsection), and

(ii) the other corporation owns shares of the capital stock of the corporation and, for the purposes of this subparagraph, the other corporation shall be deemed to own the shares of the capital stock of any corporation that are owned by a corporation any shares of the capital stock of which are owned or are deemed by this subparagraph to be owned by the other corporation,

(e) where, at any time in the 24 month period ending at the determination time, the share was substituted for another share, the share shall be considered to have met the requirements of this definition only where the other share

(i) was not owned by any person or partnership other than a person or partnership described in paragraph (b) throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

(ii) was a share of the capital stock of a corporation described in paragraph (c) throughout that part of the period referred to in subparagraph (i) during which such share was owned by a person or partnership described in paragraph (b), and

(f) where, at any time in the 24 month period ending at the determination time, a share referred to in subparagraph (c)(ii) was substituted for another share, that share shall be considered to have met the requirements of subparagraph (c)(ii) only where the other share

(i) was not owned by any person or partnership other than a person or partnership described in clause (c)(ii)(A) throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

(ii) was a share of the capital stock of a corporation described in paragraph (c) throughout that part of the period referred to in subparagraph (i) during which such

share was owned by a person or partnership described in clause (c)(ii)(A);"

(11) The definition "share of the capital stock of a family farm corporation" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"share of the capital stock of a family farm corporation"  
*«action du capital-actions d'une corporation agricole familiale»*

"share of the capital stock of a family farm corporation" of an individual (other than a trust that is not a personal trust) at any time means a share of the capital stock of a corporation owned by the individual at that time where,

(a) throughout any 24 month period ending before that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to

(i) property used by

(A) the corporation,

(B) the individual,

(C) where the individual is a personal trust, a beneficiary of the trust,

(D) a spouse, child or parent of an individual referred to in clause (B) or (C), or

(E) a partnership, an interest in which was an interest in a family farm partnership of an individual referred to in clause (B), (C) or (D),

principally in the course of carrying on the business of farming in Canada in which any individual referred to in clause (B), (C) or (D) was actively engaged on a regular and continuous basis,

(ii) shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to property described in subparagraph (iii), or

(iii) properties described in either subparagraph (i) or (ii), and



(b) at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to

(i) property that has been used principally in the course of carrying on the business of farming in Canada by the corporation or a person or partnership referred to in subparagraph (a)(i),

(ii) shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to property described in subparagraph (iii), or

(iii) properties described in either of subparagraph (i) or (ii)."

(12) Paragraph 110.6(14)(c) of the said Act is repealed and the following substituted therefor:

"(c) a personal trust shall be deemed

(i) to be related to a person or partnership for any period throughout which the person or partnership was a beneficiary of the trust, and

(ii) in respect of shares of the capital stock of a corporation, to be related to the person from whom it acquired those shares where at the time the trust disposed of the shares all of the beneficiaries (other than registered charities) of the trust were related to that person or would have been so related if that person were living at that time;"

(13) Subsection 110.6(14) of the said Act is further amended by striking out the word "and" at the end of paragraph (e) thereof, by adding the word "and" at the end of paragraph (f) thereof and by adding thereto the following paragraph:

"(g) where, immediately before the death of an individual, a share would, but for paragraph (a) of the definition "qualified small business corporation share" in subsection (1), be a qualified small business corporation share of the individual, the share shall be deemed to be a qualified small business corporation share of the individual if it was a qualified small business corporation share of the individual at any time in the twelve-month period immediately preceding the death of the individual."

(14) Section 110.6 of the said Act is further amended by adding thereto the following subsections:

## Life insurance policy of corporation

"(15) For the purposes of the definitions "qualified small business corporation share" and "share of the capital stock of a family farm corporation" in subsection (1) and the definition "small business corporation" in subsection 248(1), where a person (in this subsection referred to as the "insured"), whose life was insured under an insurance policy owned by a particular corporation, owned shares of the capital stock (in this subsection referred to as the "subject shares") of the particular corporation, any corporation connected with the particular corporation or with which the particular corporation is connected or any corporation connected with any such corporation or with which any such corporation is connected (within the meaning of subsection 186(4) on the assumption that the corporation referred to herein was a payer corporation within the meaning of that subsection),

(a) the fair market value of the life insurance policy shall, at any time before the death of the insured, be deemed to be its cash surrender value (within the meaning assigned by paragraph 148(9)(b)) at that time; and

(b) the total fair market value of assets (other than assets described in subparagraph (c)(i), (ii) or (iii) of the definition "qualified small business corporation share" in subsection (1), subparagraph (b)(i), (ii) or (iii) of the definition "share of the capital stock of a family farm corporation" in subsection (1) or paragraph (a), (b) or (c) of the definition "small business corporation" in subsection 248(1), as the case may be) of the particular corporation that are

(i) the proceeds, the right to receive the proceeds or attributable to the proceeds of the life insurance policy of which the particular corporation was a beneficiary,

(ii) used, directly or indirectly, within the 24 month period commencing at the time of the death of the insured or, where written application therefor had been made by the particular corporation within that period, within such longer period as the Minister considers reasonable in the circumstances, to redeem, acquire or cancel the subject shares owned by the insured immediately before the death of the insured, and

(iii) not in excess of the fair market value of the assets immediately after the death of the insured,

shall, until such redemption, acquisition or cancellation, be deemed not to exceed the cash surrender value (within the meaning assigned by paragraph 148(9)(b)) of the policy immediately before the death of the insured.

#### Personal trust

(16) For the purposes of the definition "qualified small business corporation share" in subsection (1) and for the purposes of paragraph (14)(c), a personal trust shall be deemed to include a trust described in subsection 7(2)."

(15) Subsections (1) to (8) and (11) to (13) are applicable to the 1988 and subsequent taxation years, except that paragraph (a) of the definition "investment expense" in subsection 110.6(1) of the said Act, as enacted by subsection (2), and paragraph (e) of that definition, as amended by subsection (4), are not applicable before 1989 with respect to amounts deducted under paragraph 20(1)(a) of the said Act in respect of a certified production (within the meaning assigned by subsection 110.4(2) of the *Income Tax Regulations*) of a taxpayer or a partnership that is property included in paragraph (n) in Class 12 of Schedule II to the *Income Tax Regulations*.

(16) Subsections (9) and (10) are applicable with respect to dispositions of shares occurring after June 17, 1987.

(17) Subsection (14) is applicable with respect to dispositions occurring after June 17, 1987 except that with respect to dispositions occurring before Announcement Date the reference to "within the 24 month period commencing at the time of the death of the insured" in subparagraph 110.6(15)(b)(ii) of the said Act, as enacted by subsection (14), shall be read as a reference to "before the day that is 12 months after Announcement Date".

81. (1) Subsections 111(1.1) and (2) of the said Act are repealed and the following substituted therefor:

#### Net capital losses

"(1.1) Notwithstanding paragraph (1)(b), the amount that may be deducted by reason of that paragraph in computing a taxpayer's taxable income for a particular taxation year is the total of

(a) the lesser of

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the particular year, and

(ii) the total of all amounts each of which is an amount determined by the formula



$$A \times \frac{B}{C}$$

where

- A is the amount claimed for the particular year by the taxpayer under paragraph (1)(b) in respect of a net capital loss for a taxation year (in this paragraph referred to as the "loss year")
- B is the fraction that would be used for the particular year under section 38 in respect of the taxpayer if the taxpayer had a capital loss for the particular year, and
- C is the fraction required to be used under section 38 in respect of the taxpayer for the loss year; and

(b) where the taxpayer is an individual, the least of

- (i) \$2,000,
- (ii) the taxpayer's pre-1986 capital loss balance for the particular year, and
- (iii) the amount, if any, by which
  - (A) the amount claimed in respect of the taxpayer's net capital losses pursuant to paragraph (1)(b) for the particular year

exceeds

- (B) the total of the amounts in respect of the taxpayer's net capital losses that, using the formula in subparagraph (a)(ii), would be required to be claimed pursuant to paragraph (1)(b) for the particular year in order to produce the amount determined under paragraph (a) for the particular year.

Year of death

(2) Where a taxpayer dies in a taxation year, for the purposes of computing the taxpayer's taxable income for that year and the immediately preceding taxation year, the following rules apply:

(a) paragraph (1)(b) shall be read as follows:

"(b) the taxpayer's net capital losses for all taxation years not claimed for the purposes of computing the taxpayer's taxable income for any other taxation year;" and

(b) paragraph (1.1)(b) shall be read as follows:

"(b) the amount, if any, by which

(i) the amount claimed in respect of the taxpayer's net capital losses pursuant to paragraph (1)(b) for the particular year

exceeds the total of

(ii) all amounts in respect of the taxpayer's net capital losses that, using the formula in subparagraph (a)(ii), would be required to be claimed pursuant to paragraph (1)(b) for the particular year in order to produce the amount determined under paragraph (a) for the particular year, and

(iii) all amounts each of which is an amount deducted by the taxpayer under section 110.6 in computing the taxpayer's taxable income for a taxation year except to the extent that, where the particular year is the year in which the taxpayer died, the amount, if any, by which the amount determined under subparagraph (i) in respect of the taxpayer for the immediately preceding taxation year exceeds the amount so determined under subparagraph (ii)."

(2) All that portion of paragraph 111(3)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) an amount in respect of a non-capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible, and an amount in respect of a net capital loss for a taxation year may be claimed, in computing the taxable income of a taxpayer for a particular taxation year only to the extent that it exceeds the total of"

(3) Paragraph 111(4)(e) of the said Act is repealed and the following substituted therefor:

"(e) each capital property owned by the corporation immediately before that time (other than a property in respect of which an amount would, but for this paragraph, be required by paragraph (c) to be deducted in computing its adjusted cost base to the corporation or a depreciable property of a prescribed class to which, but for this paragraph, subsection 111(5.1) would apply) as is designated by the corporation in its return of income under this Part for the taxation year that ended immediately before that time or in a prescribed form filed with the Minister on or before the day that is 90 days after the day on which a notice of assessment of tax payable for the year or notification that no tax is payable for the year is mailed to the corporation, shall be deemed to have been disposed of by the corporation immediately before the time that is immediately before that time for proceeds of disposition equal to the lesser of

(i) the fair market value of the property immediately before that time, and

(ii) the greater of the adjusted cost base to the corporation of the property immediately before that time and such amount as is designated by the corporation in respect of the property

and shall be deemed to have been reacquired by it at that time at a cost equal to the proceeds of disposition thereof; and"

(4) Clause 111(8)(b.2)(i)(B) of the said Act is repealed and the following substituted therefor:

"(B) the total of all amounts claimed by the taxpayer under this section in respect of that loss in computing the taxpayer's taxable income for taxation years preceding the particular taxation year, and"

(5) Clause 111(8)(b.2)(ii)(C) of the said Act is repealed and the following substituted therefor:

"(C) the total of all amounts claimed by the taxpayer under this section in respect of the taxpayer's net capital loss for the 1985 taxation year in computing the taxpayer's taxable income for taxation years preceding the particular taxation year,"



(6) Subsections (1), (2), (4) and (5) are applicable with respect to the computation of taxable income for the 1985 and subsequent taxation years.

(7) Subsection (3) is applicable with respect to acquisitions of control occurring after Announcement Date, other than acquisitions of control where the persons acquiring control were obliged on that date to acquire control pursuant to the terms of agreements in writing entered into on or before that date.

82. (1) Subparagraph 112(2.4)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) an obligation of an investor to make payments that are required to be included, in whole or in part, in computing the income of the issuer, other than an obligation of a corporation that, immediately before the subject share was issued, would be related to the corporation that issued the subject share if this Act were read without reference to paragraph 251(5)(b), or"

(2) All that portion of subsection 112(4) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"be deemed to be the amount of that loss otherwise determined minus

(c) where the taxpayer is an individual and the corporation is a taxable Canadian corporation, the total of all amounts each of which is a dividend (other than a capital gains dividend within the meaning assigned by subsection 131(1)) on the share received by the taxpayer,

(d) where the taxpayer is a corporation, the total of all amounts each of which is

(i) a taxable dividend, to the extent of the amount thereof that was deductible in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year by reason of this section or subsection 115(1) or 138(6), or

(ii) a dividend, other than a taxable dividend,

on the share received by the taxpayer, and

(e) in any other case, nil."

(3) All that portion of subsection 112(4.1) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"be deemed to be an amount equal to the fair market value of that share at the particular time otherwise determined plus

(c) where the holder is an individual and the corporation is a taxable Canadian corporation, the total of all amounts each of which is a dividend (other than a capital gains dividend within the meaning assigned by subsection 131(1)) on the share received before the particular time by the holder or that would have been so received if this Act were read without reference to subsection 104(19),

(d) where the holder is a corporation, the total of all amounts each of which is

(i) a taxable dividend, to the extent of the amount thereof that was deductible in computing the holder's taxable income or taxable income earned in Canada for any taxation year by reason of this section, section 113 or subsection 115(1) or 138(6), or

(ii) a dividend, other than a taxable dividend,

on the share received before the particular time by the holder,

(e) where the holder is a partnership, the total of all amounts each of which is a dividend (other than a capital gains dividend within the meaning assigned by subsection 131(1)) on the share received before the particular time by the holder, and

(f) in any other case, nil."

(4) All that portion of subsection 112(4.2) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"be deemed to be the amount of that loss otherwise determined minus

(c) where the taxpayer is an individual and the corporation is a taxable Canadian corporation, the total of all amounts each of which is a dividend (other than a capital gains dividend within the meaning assigned by subsection 131(1)) on the share received by the taxpayer,

(d) where the taxpayer is a corporation, the total of all amounts each of which is

(i) a taxable dividend, to the extent of the amount thereof that was deductible in computing the taxpayer's taxable income or taxable income earned in Canada for

any taxation year by reason of this section or subsection 115(1) or 138(6), or

(ii) a dividend, other than a taxable dividend,

on the share received by the taxpayer, and

(e) in any other case, nil."

(5) Subsection (1) is applicable after 5:00 p.m. Eastern Standard Time, November 27, 1986.

(6) Subject to subsection 152(4) of the said Act, subsections (2) and (4) are applicable to the determination of losses arising in the 1985 and subsequent taxation years, except that subsections 112(4) and (4.2) of the said Act, as amended by subsections (2) and (4) respectively, do not apply with respect to the amount of a dividend received by a taxpayer on which the taxpayer was required to pay tax under Part VII of the said Act as it read on March 31, 1977.

(7) Subject to subsection 152(4) of the said Act, subsection (3) is applicable to the 1985 and subsequent taxation years, except that subsection 112(4.1) of the said Act, as amended by subsection (3), does not apply with respect to the amount of a dividend received by a holder on which the holder was required to pay tax under Part VII of the said Act as it read on March 31, 1977.

83. (1) Section 114 of the said Act is repealed and the following substituted therefor:

Individual resident in Canada for part only of year

"114. Notwithstanding subsection 2(2), where an individual is resident in Canada during part of a taxation year, and during some other part of the year is not resident in Canada, is not employed in Canada and is not carrying on business in Canada, for the purposes of this Part, the individual's taxable income for the year is the amount, if any, by which the total of

(a) the individual's income for the period or periods in the year throughout which the individual is resident in Canada, is employed in Canada or is carrying on business in Canada, computed as though such period or periods were the whole taxation year and as though any disposition of property deemed by subsection 48(1) to have been made by reason of the individual having ceased to be resident in Canada were made in such period or periods, and

(b) the amount that would be the individual's taxable income earned in Canada for the year if at no time in the year the



individual had been resident in Canada, computed as though the part of the year that is not in the period or periods referred to in paragraph (a) were the whole taxation year

exceeds

(c) the total of

(i) such of the deductions permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable, and

(ii) such part of any other of those deductions as may reasonably be considered applicable

to the period or periods referred to in paragraph (a),

except that the total of all amounts included in computing the total determined under paragraph (c) and all amounts deducted by reason of paragraphs 115(1)(d) to (f) in respect of the individual for the year shall not exceed the total of the amounts that would have been deductible in computing the individual's taxable income for the year had the individual been resident in Canada throughout the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

84. (1) Paragraph 115(1)(d) of the English version of the said Act is repealed and the following substituted therefor:

"(d) the deductions permitted by paragraphs 110(1)(d), (d.1), (d.2), (f) and (i) and subsection 110.1(1),"

(2) Subsection 115(1) of the said Act is further amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph:

"(d.1) the deductions permitted by subsections 112(1) and (2) and 138(6) to the extent that a dividend or portion thereof has been included in computing the non-resident person's taxable income earned in Canada,"

(3) Subsection 115(3) of the said Act is repealed and the following substituted therefor:

Property deemed to include interests and options

"(3) For the purpose of this section, a property described in subparagraphs (1)(b)(i) to (ix) shall be deemed to include any interest

therein or option in respect thereof, whether or not such property is in existence."

(4) Subsection (1) is applicable to the 1988 and subsequent taxation years.

(5) Subsection (2) is applicable to the 1983 and subsequent taxation years.

(6) Subsection (3) applicable after Announcement Date.

85. (1) All that portion of subsection 116(5.2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Certificates for dispositions

"(5.2) Where a non-resident person has, in respect of a disposition or proposed disposition to a taxpayer in a taxation year of a life insurance policy in Canada of the non-resident person, a Canadian resource property of the non-resident person, property (other than capital property) that is real property situated in Canada of the non-resident person (including any interest therein or option in respect thereof whether or not such property is in existence), a timber resource property of the non-resident person or any interest therein or option in respect thereof, or depreciable property that is or would, if the non-resident person disposed of it, be a taxable Canadian property of the non-resident person,"

(2) Subsection (1) is applicable with respect to dispositions occurring after February 20, 1990, other than dispositions pursuant to agreements in writing entered into before February 21, 1990.

86. (1) Subsection 118.1(1) of the said Act is repealed and the following substituted therefor:

Definitions

"118.1(1) In this section

"total charitable gifts"

*«total des dons de charité»*

"total charitable gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift made by the individual in the year or in any of the 5 immediately preceding taxation years (other than in a year for which a deduction under subsection 110(2) was claimed in computing the individual's taxable income) to

- (a) a registered charity,
- (b) a registered Canadian amateur athletic association,
- (c) a housing corporation resident in Canada and exempt from tax under this Part by reason of paragraph 149(1)(i),
- (d) a Canadian municipality,
- (e) the United Nations or an agency thereof,
- (f) a university outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada, or
- (g) a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift during the individual's taxation year or the 12 months immediately preceding that taxation year,

to the extent that those amounts were

- (h) not deducted in computing the individual's taxable income for a taxation year ending before 1988, and
- (i) not included in determining an amount that was deducted under this section in computing the individual's tax payable under this Part for a preceding taxation year;

"total Crown gifts"

*«total des dons à l'État»*

"total Crown gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift made by the individual in the year or in any of the 5 immediately preceding taxation years to Her Majesty in right of Canada or a province, to the extent that those amounts were

- (a) not deducted in computing the individual's taxable income for a taxation year ending before 1988, and
- (b) not included in determining an amount that has been deducted under this section in computing the individual's tax payable under this Part for a preceding taxation year;



"total cultural gifts"

«total des dons de biens culturels»

"total cultural gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift

(a) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act*,

(b) that is not included in the total charitable gifts nor the total Crown gifts of the individual for the year and would not have been so included for a preceding taxation year if this section had been applicable to that preceding year, and

(c) that was made by the individual in the year or in any of the 5 immediately preceding taxation years to an institution or a public authority in Canada that was, at the time the gift was made, designated under subsection 32(2) of the *Cultural Property Export and Import Act* either generally or for a specified purpose related to that object

to the extent that those amounts were

(d) not deducted in computing the individual's taxable income for a taxation year ending before 1988, and

(e) not included in determining an amount that has been deducted under this section in computing the individual's tax payable under this Part for a preceding taxation year;

"total gifts"

«total des dons»

"total gifts" of an individual for a taxation year means the total of

(a) the lesser of

(i) the individual's total charitable gifts for the year, and

(ii) 1/5 of the individual's income for the year,

(b) the individual's total Crown gifts for the year, and

(c) the individual's total cultural gifts for the year."

(2) Subsection 118.1 of the said Act is further amended by adding thereto the following subsection:

Determination of fair market value

"(10) For the purposes of paragraph 110.1(1)(c) and the definition "total cultural gifts" in subsection (1), the fair market value of an object shall be determined by the Canadian Cultural Property Export Review Board."

(3) Subsection (1) is applicable after December 11, 1988.

(4) Subsection (2) is applicable with respect to gifts made after February 20, 1990.

87. (1) Paragraph 118.2(2)(h) of the said Act is repealed and the following substituted therefor:

"(h) for reasonable travelling expenses (other than expenses described in paragraph (g)) incurred in respect of the patient and, where the patient was, and has been certified by a medical practitioner to be, incapable of travelling without the assistance of an attendant, in respect of one individual who accompanied the patient, to obtain medical services in a place that is not less than 80 kilometres from the locality where the patient dwells if the circumstances described in subparagraphs (g)(iii), (iv) and (v) apply;"

(2) Paragraph 118.2(2)(m) of the said Act is repealed and the following substituted therefor:

"(m) for any device or equipment for use by the patient that

(i) is of a prescribed kind,

(ii) is prescribed by a medical practitioner,

(iii) is not described in any other paragraph of this subsection, and

(iv) meets such conditions as may be prescribed as to its use or the reason for its acquisition;"

(3) Subsection (1) is applicable to the 1988 and subsequent taxation years.

88. (1) All that portion of paragraph 118.3(2)(a) of the English version of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) an individual has, in respect of a person (other than a person in respect of whom the person's spouse deducts for the year an amount under section 118 or 118.8) who is resident in Canada at any time in a taxation year and who is entitled to deduct an amount under subsection (1) for the year, claimed for the year a deduction under subsection 118(1) by reason of"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

89. (1) Paragraph 118.5(1)(a) of the said Act is amended by striking out the word "or" at the end of subparagraph (iii) thereof and by adding thereto, immediately after subparagraph (iii) thereof, the following subparagraph:

"(iii.1) are fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance is not included in computing the individual's income, or"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

90. (1) All that portion of subsection 118.6(1) of the said Act preceding the definition "designated educational institution" therein is repealed and the following substituted therefor:

#### Definitions

"118.6(1) For the purposes of this subdivision,"

(2) All that portion of the definition "qualifying educational program" in subsection 118.6(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"qualifying educational program"  
«programme de formation admissible»

"qualifying educational program" means a program of not less than 3 consecutive weeks duration that provides that each student taking the program spend not less than 10 hours per week on courses or work in the program and, in respect of a program at an institution described in the



definition "designated educational institution" (other than an institution described in subparagraph (a)(ii) thereof), that is a program at a post-secondary school level but, in relation to any particular student, does not include any such program"

(3) The description of "B" in the formula used in subsection 118.6(2) of the said Act is repealed and the following substituted therefor:

"B is the number of months in the year during which the individual is enrolled in a qualifying educational program as a full-time student at a designated educational institution,"

(4) Subsections (1) to (3) are applicable to the 1991 and subsequent taxation years.

91. (1) The description of "A" in the formula used in subsection 118.9(1) of the said Act is repealed and the following substituted therefor:

"A is the lesser of

(a) \$600, and

(b) the total of all amounts each of which is an amount that the individual may deduct for the year under section 118.6 or an amount that the individual would have been entitled to deduct for the year under subsection 118.5(1) if the reference in that subsection to "the amount of any fees for his tuition paid in respect of the year to the educational institution" were read as a reference to "that portion of the individual's fees paid in respect of the year that may reasonably be considered to have been paid in respect of a qualifying educational program of an educational institution described in subparagraph (a)(i) of the definition "designated educational institution" in subsection 118.6(1)"; and"

(2) Subsection (1) is applicable with respect to fees relating to periods after June 1990.

92. (1) Section 118.91 of the said Act is repealed and the following substituted therefor:

Part-year residents

"118.91 Notwithstanding the provisions in sections 118 to 118.9, where an individual is resident in Canada during part of a taxation year and during some other part of the year is not resident in Canada, is not employed in Canada and is not carrying on business in Canada, for the purpose of computing the individual's tax payable under this Part for the year,

(a) the amount deductible for the year under each such provision in respect of the part of the year that is not included in the period or periods referred to in paragraph (b) shall be computed as though such part were the whole taxation year; and

(b) the individual shall be allowed only

(i) such of the deductions permitted under sections 118.1, 118.2, 118.5, 118.6 and 118.7 and subsection 118(3) as may reasonably be considered wholly applicable, and

(ii) such part of the deductions permitted under sections 118, 118.3, 118.8 and 118.9 as may reasonably be considered applicable

to the period or periods in the year throughout which the individual is resident in Canada, is employed in Canada or is carrying on business in Canada, computed as though the period or periods were the whole taxation year,

except that the amount deductible for the year by the individual under each such provision shall not exceed the amount that would have been deductible thereunder had the individual been resident in Canada throughout the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

93. (1) Section 118.94 of the said Act is repealed and the following substituted therefor:

**Tax payable by non-resident**

"118.94 Sections 118 and 118.2, subsections 118.3(2) and (3) and sections 118.6, 118.8 and 118.9 do not apply for the purpose of computing the tax payable under this Part for a taxation year by an individual who at no time in the year is resident in Canada unless all or substantially all of the individual's income for the year is included in computing the individual's taxable income earned in Canada for the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

94. (1) All that portion of paragraph 120.1(3)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) an amount equal to that proportion of 52% of the amount referred to in paragraph (a) that"

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years except that, for the 1989 taxation year, the reference to "52%" in paragraph 120.1(3)(b) of the said Act, as amended by subsection (1), shall be read as a reference to "49.5%".

95. (1) All that portion of paragraph 122.3(1)(b) of the said Act preceding clause (i)(A) thereof is repealed and the following substituted therefor:

"(b) performed all or substantially all the duties of the individual's employment outside Canada

(i) in connection with a contract under which the specified employer carried on business outside Canada with respect to"

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

96. (1) Clause 125(7)(f)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) the aggregate of all amounts each of which is an amount in respect of an active business carried on in Canada by the corporation as a member of the partnership equal to the amount, if any, by which

(I) the aggregate of all amounts each of which is the corporation's share of the income (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period ending in the year from the business

exceeds

(II) the aggregate of all amounts each of which is an amount deducted in computing the corporation's income for the year from the business (other than an amount that was deducted in computing the income of the partnership from the business), and"



(2) Subclause 125(7)(f)(i)(B)(III) of the said Act is repealed and the following substituted therefor:

"(III) the aggregate of all amounts each of which is the corporation's share of the income (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period ending in the year from an active business carried on in Canada"

(3) Paragraph 125(7)(g) of the said Act is repealed and the following substituted therefor:

"specified partnership loss"  
*«perte de société désignée»*

"(g) "specified partnership loss" of a corporation for a taxation year means the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member in the year equal to the total of

(i) all amounts each of which is the corporation's share of the loss (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period ending in the year from an active business carried on in Canada by the corporation as a member of the partnership, and

(ii) all amounts each of which is the amount, if any, by which the aggregate determined under subclause (f)(i)(A)(II) for the year in respect of the corporation's income from an active business carried on in Canada by the corporation as a member of the partnership exceeds the aggregate determined under subclause (f)(i)(A)(I) for the year in respect of the corporation's share of the income from the business."

(4) Subsections (1) to (3) are applicable to the 1985 and subsequent taxation years.

97. (1) Subparagraphs 125.1(3)(b)(vi) to (vi.2) of the said Act are repealed and the following substituted therefor:

"(vi) processing ore (other than iron ore or tar sands) from a mineral resource located in Canada to any stage that is not beyond the prime metal stage or its equivalent,

(vi.1) processing iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent,

(vi.2) processing tar sands from a mineral resource located in Canada to any stage that is not beyond the crude oil stage or its equivalent,"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

98. In its application to corporations described in paragraph (d) or (e) of the definition "financial institution" in subsection 190(1) of the said Act, as enacted by this Act,

(a) for taxation years commencing before February 21, 1990, subsection 125.2(1) of the *Income Tax Act* shall be read as follows:

"125.2(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was throughout the year a financial institution (within the meaning assigned by section 190) an amount equal to the lesser of

(a) the aggregate of

(i) its tax payable under Part VI for the year, and

(ii) such part of its unused Part VI tax credits for the three taxation years immediately following the year as the corporation may claim; and

(b) that proportion of its tax otherwise payable under this Part for the year that the number of days in the year that are after February 20, 1990 is of the number of days in the year."; and

(b) subsection 125.2(3) of the *Income Tax Act* shall be read as follows:

"(3) For the purposes of this section, "unused Part VI tax credit" of a corporation for a taxation year commencing before February 21, 1990 means the amount, if any, by which the corporation's tax payable under Part VI for the year exceeds the amount deductible under subsection (1) in computing its tax payable under this Part for the year."

99. (1) All that portion of subparagraph 126(2.1)(a)(i) of the said Act following clause (B) thereof is repealed and the following substituted therefor:

"from businesses carried on by the taxpayer in that country, other than any portion thereof that was

deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income for the year"

(2) Paragraph 126(7)(a) of the said Act is repealed and the following substituted therefor:

"business-income tax"

«*impôt sur le revenu tiré d'une entreprise*»

"(a) "business-income tax" paid by a taxpayer for a taxation year in respect of businesses carried on by the taxpayer in a country other than Canada (in this paragraph referred to as the "business country") means such portion of any income or profits tax paid by the taxpayer for the year to the government of any country other than Canada or to the government of a state, province or other political subdivision of any such country as may reasonably be regarded as tax in respect of the income of the taxpayer from any business carried on by the taxpayer in the business country, but does not include a tax, or the portion of a tax, that may reasonably be regarded as relating to an amount

(i) that any other person or partnership has received or is entitled to receive from that government, or

(ii) that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income for the year;"

(3) Paragraph 126(7)(c) of the said Act is amended by striking out the word "or" at the end of subparagraph (vii) thereof, by adding the word "or" at the end of subparagraph (viii) thereof and by adding thereto the following subparagraph:

"(ix) that may reasonably be regarded as relating to an amount that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income for the year;"

(4) Subsections (1) to (3) are applicable to taxation years ending after Announcement Date.

100. (1) The definition "investment tax credit" in subsection 127(9) of the said Act is amended by adding thereto, after paragraph (k) thereof, the following:

"except that no amount shall be included in the aggregate determined under any of paragraphs (a) to (e.1) in respect of any qualified Canadian exploration expenditure or qualified expenditure made by the taxpayer in the course of earning income from a business, or in respect of any certified property, qualified property or approved project property acquired



by the taxpayer for use in the course of earning income from a business, if any of the income from that business is exempt from tax under this Part;"

(2) Paragraph (c) of the definition "qualified property" in subsection 127(9) of the said Act is amended by striking out the word "or" at the end of subparagraph (xi) thereof and by adding thereto the following subparagraph:

"(xiii) harvesting peat, or"

(3) Paragraph (d) of the definition "qualified property" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(d) to be leased by the taxpayer to a lessee (other than a person exempt from tax under this Part by reason of section 149) who may reasonably be expected to use the property in Canada primarily for any of the purposes referred to in subparagraphs (c)(i) to (xiii), but this paragraph does not apply in respect of property that is a prescribed property for the purposes of paragraph (b) unless use of the property by the first person to whom it was leased commenced after June 23, 1975, and

(i) the property is leased in the ordinary course of carrying on a business in Canada by a corporation whose principal business is leasing property, lending money, purchasing conditional sales contracts, accounts receivable, bills of sale, chattel mortgages, bills of exchange or other obligations representing all or part of the sale price of merchandise or services, or any combination thereof,

(ii) the property is manufactured and leased in the ordinary course of carrying on business in Canada by a corporation whose principal business is manufacturing property that it sells or leases, or

(iii) the property is leased in the ordinary course of carrying on business in Canada by a corporation whose principal business is selling or servicing property of that type;"

(4) The definition "qualified property" in subsection 127(9) of the said Act is further amended by adding thereto, after paragraph (d) thereof, the following:

"and, for the purposes of this definition, "Canada" includes the offshore region prescribed for the purposes of the definition "specified percentage";"

(5) Section 127 of the said Act is further amended by adding thereto, immediately after subsection (10.6) thereof, the following subsection:

Further additions to investment tax credits

"(10.7) Where a taxpayer has in a particular taxation year repaid an amount of government assistance, non-government assistance or a contract payment that had, by reason of subsection (11.1), resulted in a reduction of the amount of a qualified expenditure for a preceding taxation year, there shall be added to the amount otherwise determined under subsection (10.1) in respect of the taxpayer for the particular year the amount, if any, by which

(a) the amount that would have been determined under subsection (10.1) in respect of the taxpayer for that preceding year if subsection (11.1) had not applied in respect of the government assistance, non-government assistance or contract payment, as the case may be, to the extent of the amount so repaid,

exceeds

(b) the amount determined under subsection (10.1) in respect of the taxpayer for that preceding year."

(6) Paragraph 127(11)(a) of the said Act is repealed and the following substituted therefor:

"(a) "manufacturing or processing" does not include any of the activities

(i) referred to in any of subparagraphs 125.1(3)(b)(i) to (v), (vii), (viii), and (ix), or

(ii) that would be referred to in any of subparagraphs 125.1(3)(b)(vi) to (vi.2) if those subparagraphs were read without reference to the expression "located in Canada", and"

(7) Section 127 of the said Act is further amended by adding thereto, immediately after subsection (11.1) thereof, the following subsection:

Idem

"(11.2) For the purposes of this section and section 127.1, property described in subparagraph (a)(i) of the definition "investment tax credit" in subsection (9) shall be deemed not to have been acquired, and expenditures made to acquire property described in subparagraph 37(1)(b)(i) shall be deemed not to have been made, by a

taxpayer before the property is considered to have become available for use by the taxpayer determined without reference to paragraphs 13(27)(c) and (28)(d)."

(8) Subsection (1) is applicable with respect to property acquired and expenditures made by a taxpayer after Announcement Date, other than property acquired and expenditures made after that date and before 1992

(a) pursuant to an agreement in writing entered into by the taxpayer on or before Announcement Date; or

(b) for the purpose of completing the construction of property that was under construction by or on behalf of the taxpayer on or before Announcement Date.

(9) Subsection (2) is applicable to the 1985 and subsequent taxation years.

(10) Subsection (3) is applicable with respect to property acquired after Announcement Date.

(11) Subsection (4) is applicable after February 25, 1986.

(12) Subsection (5) is applicable with respect to amounts repaid after May 23, 1985.

(13) Subsection (6) is applicable to the 1990 and subsequent taxation years.

(14) Subsection (7) is applicable with respect to property acquired and expenditures made after 1989.

101. (1) The definitions "approved share" and "net cost" in subsection 127.4(1) of the said Act are repealed and the following substituted therefor:

"approved share"  
«*action approuvée*»

"approved share" means a share of the capital stock of a prescribed labour-sponsored venture capital corporation acquired or irrevocably subscribed and paid for by an individual where the individual is or will be the first person, other than a broker or dealer in securities, to be a registered holder thereof;

"net cost"  
«*coût net*»



"net cost" to an individual of an approved share means the amount, if any, by which

(a) the amount of consideration paid by the individual to acquire or subscribe for the share

exceeds

(b) the amount of any assistance (other than an amount included in computing a tax credit of the individual in respect of that share) provided or to be provided by a government, municipality or any public authority in respect of, or for the acquisition of, the share;"

(2) Subsection 127.4(3) of the said Act is repealed and the following substituted therefor:

#### Computation of tax credit

"(3) The labour-sponsored funds tax credit of an individual for a taxation year is the total of all amounts, in respect of an approved share acquired or irrevocably subscribed and paid for by the individual in the year or within 60 days after the end of the year (to the extent that it was not deducted in computing the individual's tax payable under this Part for the preceding taxation year), each of which is

(a) where a tax credit is provided under the law of a province in respect of the acquisition of, or subscription for, the share by the individual, and the share is not a share of a registered labour-sponsored venture capital corporation (within the meaning assigned by section 204.8) the amount, if any, by which

(i) 40% of the net cost to the individual of the share

exceeds

(ii) the amount of the tax credit so provided, and

(b) in any other case, where the individual has filed with the individual's return of income under this Part for the year (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)), the information return described in paragraph 204.81(6)(c) in respect of the share, 20% of the net cost to the individual of the share."

(3) Subsections (1) and (2) are applicable after 1988.

102. (1) Paragraph 127.52(1)(h) of the said Act is repealed and the following substituted therefor:

"(h) the only amounts deductible under sections 110 to 110.7 in computing the individual's taxable income for the year or taxable income earned in Canada for the year, as the case may be, were the amounts deducted under any of subsections 110(2), 110.6(2), (2.1), (3) and (12) and 110.7(1) and the amount that would be deductible under paragraph 110(1)(f) if paragraph (d) were applicable in computing the individual's income for the year;"

(2) Subparagraph 127.52(1)(i)(i) of the said Act is repealed and the following substituted therefor:

"(i) paragraphs 111(1)(a), (c), (d) and (e) were the lesser of

(A) the amount deducted under those paragraphs for the year, and

(B) the amounts that would be deductible under those paragraphs for the year if paragraphs (b), (c) and (e) of this subsection were applicable in computing the individual's non-capital loss, restricted farm loss, farm loss and the limited partnership loss for any taxation year commencing after 1985, and"

(3) Subsection (1) is applicable to the 1986 and subsequent taxation years except that, in its application to the 1986 to 1988 taxation years, paragraph 127.52(1)(h) of the said Act, as enacted by subsection (1), shall be read as follows:

"(h) the only amounts deductible under sections 110 to 110.7 in computing the individual's taxable income for the year or the individual's taxable income earned in Canada for the year, as the case may be, were the amounts deducted under any of paragraph 110(1)(i) and subsections 110(2), 110.4(1), 110.6(2), (2.1), (3) and (12) and 110.7(1) and the amount that would be deductible under paragraph 110(1)(f) if paragraph (d) were applicable in computing the individual's income for the year;"

(4) Subsection (2) is applicable to taxation years commencing after 1985.

103. (1) Section 127.55 of the said Act is amended by striking out the word "or" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) a trust described in paragraph 104(4)(a) for its taxation year in which the spouse referred to in that paragraph dies."

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

104. (1) Paragraph 129(3.5)(d) of the said Act is repealed and the following substituted therefor:

"(d) any amount added under paragraph 88(1)(e.5) in computing the corporation's refundable dividend tax on hand at the end of its last taxation year commencing before 1988 in respect of the refundable dividend tax on hand of a subsidiary (within the meaning assigned by subsection 88(1)) for a taxation year ending after 1987, and"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

105. (1) Subparagraph 130(3)(a)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) not less than 95% of its income (determined without reference to subsection 49(2)) for the year was derived from, or from dispositions of, investments described in subparagraph (ii),"

(2) Section 130 of the said Act is further amended by adding thereto the following subsection:

#### Wholly-owned subsidiaries

"(4) Where a corporation so elects in its return of income for a taxation year, each property of the corporation that is a share or indebtedness of another Canadian corporation that is at any time in the year a subsidiary wholly-owned corporation of the corporation shall, for the purposes of subparagraphs (3)(a)(ii) and (vi), be deemed not to be owned by the corporation at any such time in the year and each property owned by the other corporation at that time shall, for the purposes of those subparagraphs, be deemed to be owned by the corporation at that time."

(3) Subsection (1) is applicable to the 1990 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1987 and subsequent taxation years and an election referred to in subsection 130(4) of the said Act, as enacted by

subsection (2), in respect of a corporation's taxation year for which a return of income under Part I of the said Act was made on or before the day on which this Act is assented to shall be deemed to have been made in the corporation's return of income for that year if the election is filed in writing with the Minister of National Revenue on or before the day that is 90 days after the day on which this Act is assented to.

106. (1) All that portion of subsection 131(8) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Meaning of "mutual fund corporation"

"(8) Subject to subsection (8.1), a corporation is, for the purposes of this Act, a mutual fund corporation at any time in a taxation year if, at that time, it was a prescribed labour-sponsored venture capital corporation or"

(2) Section 131 of the said Act is further amended by adding thereto, immediately after subsection (8) thereof, the following subsection:

Idem

"(8.1) Where, at any time, it may reasonably be considered that a corporation, having regard to all the circumstances, including the terms and conditions of the shares of the capital stock of the corporation, was established or is maintained primarily for the benefit of non-resident persons, the corporation shall be deemed not to be a mutual fund corporation after that time unless

(a) throughout the period commencing on the later of February 21, 1990 and the day of its incorporation and ending at that time, all or substantially all of its property consisted of property other than

(i) real property situated in Canada (including any interest therein or option in respect thereof whether or not such property is in existence), and

(ii) property that would, if

(A) the corporation were not resident in Canada,

(B) paragraph 115(1)(b) were read without reference to subparagraphs (i) and (ii) thereof, and



(C) the property were disposed of

be taxable Canadian property of the corporation; or

(b) it has not issued a share (other than a share issued as a stock dividend) of its capital stock after February 20, 1990 and before that time to a person that, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the share was issued to that person pursuant to an agreement in writing entered into before February 21, 1990."

(3) Section 131 of the said Act is further amended by adding thereto the following subsection:

Rules respecting prescribed labour-sponsored venture capital corporations

"(11) Notwithstanding any other provision of this Act, in applying this Act to a corporation that was at any time a prescribed labour-sponsored venture capital corporation

(a) for the purposes of subparagraphs 129(3)(a)(i) and (ii), the amount deducted under paragraph 111(1)(b) from the corporation's income for each taxation year ending after that time shall be deemed to be nil;

(b) paragraph 129(4)(a) shall be read without reference to subparagraph (i) thereof for taxation years ending after that time;

(c) if it has so elected in its return of income under this Part for a taxation year ending after that time, subsection 84(1) shall apply, notwithstanding subsection 131(4), for that year and all subsequent taxation years;

(d) subsection 131(5) shall not apply for taxation years ending after that time; and

(e) the amount of the corporation's capital dividend account at any time thereafter shall be deemed to be nil."

(4) Subsections (1) and (3) are applicable to the 1990 and subsequent taxation years.

(5) Subsection (2) applies after February 20, 1990.

107. (1) All that portion of subsection 132(6) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Meaning of expression "mutual fund trust"

"(6) Subject to subsection (7), a trust is a mutual fund trust for the purposes of this Act at any time if, at that time,"

(2) Section 132 of the said Act is further amended by adding thereto the following subsection:

Idem

"(7) Where, at any time, it may reasonably be considered that a trust, having regard to all the circumstances, including the terms and conditions of the units of the trust, was established or is maintained primarily for the benefit of non-resident persons, the trust shall be deemed not to be a mutual fund trust after that time unless

(a) throughout the period commencing on the later of February 21, 1990 and the day of its creation and ending at that time all or substantially all of its property consisted of property other than

(i) real property situated in Canada (including any interest therein or option in respect thereof whether or not such property is in existence), and

(ii) property that would, if

(A) the trust were not resident in Canada,

(B) paragraph 115(1)(b) were read without reference to subparagraphs (i) and (ii) thereof, and

(C) the property were disposed of

be taxable Canadian property of the trust, or

(b) it has not issued a unit (other than a unit issued to a person in satisfaction of the person's right under the trust to an amount referred to in paragraph 104(13)(c)) of the trust after February 20, 1990 and before that time to a person that, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the unit was issued to that person pursuant to an agreement in writing entered into before February 21, 1990."

(3) Subsections (1) and (2) are applicable after February 20, 1990.

108. (1) Subsection 136(1) of the said Act is repealed and the following substituted therefor:

### Cooperative not private corporation

"136.(1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation except for the purposes of sections 15.1, 125, 125.1, 127, 127.1, 152 and 157 and the definition "small business corporation" in subsection 248(1) as it applies for the purposes of paragraph 39(1)(c)."

(2) Subsection (1) is applicable after June 1988 except that, in its application before April 28, 1989, subsection 136(1) of the said Act, as enacted by subsection (1), shall be read without reference to "152" therein.

'109. (1) Subsection 137(5.1) of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof and by repealing paragraph (b) thereof and substituting the following therefor:

"(b) the amount, if any, by which

(i) the aggregate of all amounts each of which is the amount by which the payer's capital gain from the disposition of a property in the year exceeds the payer's taxable capital gain from the disposition of that property

exceeds

(ii) the aggregate of all amounts each of which is the amount by which the payer's capital loss from the disposition of a property in the year exceeds the payer's allowable capital loss from the disposition of that property; and

(c) each amount deductible under paragraph (5.2)(c) by the payer in computing its taxable income for the year."

(2) Paragraph 137(5.2)(b) of the said Act is repealed and the following substituted therefor:

"(b) there shall be included in computing the income of a payer for a taxation year an amount equal to that portion of the amounts referred to in paragraphs (5.1)(b) and (c) that the payer allocated to its members under subsection (5.1) in respect of the year; and"

(3) Subsections (1) and (2) applicable to the 1988 and subsequent taxation years.

110. (1) All that portion of subsection 138(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Insurer's income or loss

"(2) Notwithstanding any other provision of this Act, where a life insurer is resident in Canada,"

(2) All that portion of subsection 138(11.3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Deemed disposition

"(11.3) Except for the purposes of subparagraph 13(21)(f)(i), clause 13(21)(f)(iv)(B), paragraph 20(1)(l), paragraphs (3)(d) and (4)(c) and any regulations made for the purposes of paragraph (12)(l), where a life insurer resident in Canada, or a non-resident insurer, that carries on an insurance business in Canada and in a country other than Canada, at any time,"

(3) Paragraph 138(11.5)(b) of the said Act is repealed and the following substituted therefor:

"(b) the transferor has, at that time or within 60 days thereafter, transferred all or substantially all of the property owned by it at that time and used by it in the year in, or held by it in the year in the course of, carrying on that insurance business in Canada in that year (in this subsection referred to as the "transferred property") to a corporation (in this subsection referred to as the "transferee") that is a qualified related corporation (within the meaning assigned by subsection 219(8)) of the transferor which, immediately after that time, commenced to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee,"

(4) Paragraph 138(11.5)(k) of the Act is repealed and the following substituted therefor:

"(k) for the purposes of this section, sections 12, 12.3, 12.4, 20, 33, 138.1, 140, 142 and 148 and Part XII.3, the transferee shall, in its taxation years following its taxation year referred to in paragraph (h), be deemed to be the same person as, and a continuation of, the transferor in respect of the business referred to in paragraph (a), the transferred property referred to in paragraph (b) and the obligations referred to in paragraph (c),"



(5) Subparagraph 138(12)(e)(i) of the said Act is repealed and the following substituted therefor:

"(i) all taxable dividends and amounts received or receivable as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties included in its gross revenue for the year,"

(6) Paragraph 138(12)(e) of the said Act is further amended by striking out the word "and" at the end of subparagraph (iv) thereof, by adding the word "and" at the end of subparagraph (v) thereof and by adding thereto the following subparagraph:

"(vi) the amount, if any, by which the total of all amounts included by reason of paragraph 56(1)(d) in computing its income for the year exceeds the total of all amounts deducted under paragraph 60(a) in computing its income for the year;"

(7) Subsections (1), (5) and (6) are applicable to the 1990 and subsequent taxation years.

(8) Subsection (2) is applicable to taxation years commencing after June 17, 1987 that end after 1987.

(9) Subsections (3) and (4) are applicable with respect to transfers of an insurance business occurring after December 15, 1987.

111. (1) All that portion of subsection 142(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Taxable capital gains etc.

"142.(1) Notwithstanding any other provision of this Act, where in a taxation year a life insurer resident in Canada carries on an insurance business in Canada and in a country other than Canada, such of its taxable capital gains for the year and allowable capital losses for the year"

(2) Subsection (1) is applicable for the 1990 and subsequent taxation years.

112. (1) Section 143 of the said Act is amended by adding thereto, immediately after subsection (3) thereof, the following subsection:

Election in respect of gifts

"(3.1) For the purposes of section 118.1, where the fair market value of a gift made in a taxation year by an *inter vivos* trust referred to in

subsection (1) would, but for this subsection, be included in the total charitable gifts, total Crown gifts or total cultural gifts of the trust for the year and the trust so elects in its return of income under this Part for the year,

(a) the trust shall be deemed not to have made the gift, and

(b) that proportion of the fair market value of the gift that

(i) the amount deemed under subsection (2) to be payable in the year in respect of the trust to a particular adult member of a family

is of

(ii) the total of all amounts each of which is an amount deemed under subsection (2) to be payable in the year in respect of the trust to an adult member of a family

shall be deemed to be the fair market value of such a gift made in the year by the particular member."

(2) Subsection 143(4) of the said Act is amended by striking out the word "and" at the end of paragraph (d) thereof, by adding the word "and" at the end of paragraph (e) thereof and by adding thereto the following paragraph:

other definitions

"(f) "total charitable gifts", "total Crown gifts" and "total cultural gifts" have the meanings assigned by subsection 118.1(1)."

(3) Subsections (1) and (2) are applicable to the 1990 and subsequent taxation years.

113. (1) Subparagraph 146(2)(c.4)(i) of the French version of the said Act is repealed and the following substituted therefor:

"(i) d'une prestation,"

(2) Subsection (1) is applicable with respect to advantages extended after 1988.

114. (1) All that portion of subsection 146.1(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Definitions

"146.1(1) In this section and Part X.4,"

(2) Subsection 146.1(1) of the said Act is further amended by adding thereto, immediately after paragraph (c) thereof, the following paragraph:

*"post-secondary educational institution"*  
*«établissement d'enseignement postsecondaire»*

"(c.1) "post-secondary educational institution" means

(i) an educational institution in Canada that is described in paragraph (a) of the definition "designated educational institution" in subsection 118.6(1), or

(ii) an educational institution outside Canada that is a university, college or other educational institution providing courses at a post-secondary school level at which a beneficiary was enrolled in a course of not less than 13 consecutive weeks;"

(3) Subsection 146.1(1) of the said Act is further amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph:

*"qualifying educational program"*  
*«programme de formation admissible»*

"(d.1) "qualifying educational program" has the meaning assigned by subsection 118.6(1);"

(4) All that portion of paragraph 146.1(1)(h) of the said Act preceding subparagraph (i) is repealed and the following substituted therefor:

*"trust"*  
*«fiducie»*

"(h) "trust" except in this paragraph means any person who irrevocably holds property pursuant to an education savings plan for"

(5) Subparagraph 146.1(1)(h)(v) of the said Act is repealed and the following substituted therefor:

"(v) the payment to a trust that irrevocably holds property pursuant to a registered education savings plan for any of the purposes set out in subparagraphs (i) to (iv)."

(6) Paragraph 146.1(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) the plan provides that the property of any trust governed by the plan (after the payment of trustee and administration charges) is irrevocably held for any of the purposes described in paragraph (1)(h) by a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee;"

(7) Paragraph 146.1(2)(c) of the said Act is repealed and the following substituted therefor:

"(c) the promoter and all trusts governed by the plan are resident in Canada;"

(8) Paragraph 146.1(2)(f) of the said Act is repealed and the following substituted therefor:

"(f) in the event that a trust governed by the plan is terminated, the property held by the trust is required to be used for any of the purposes described in paragraph (1)(h);"

(9) Paragraph 146.1(2)(g) of the said Act is repealed and the following substituted therefor:

"(g) the plan does not allow for the payment of educational assistance payments to an individual unless the individual is, at the time the payment is made, a student in full-time attendance at a post-secondary educational institution and enrolled in a qualifying educational program at the institution;

(h) the plan provides that no payments may be made into the plan by or on behalf of a subscriber after the 21st year following the year in which the plan is entered into;

(i) the plan provides that it must be terminated on or before the last day of the 25th year following the year in which the plan is entered into;

(j) where the plan provides that a subscriber may name more than one beneficiary under the plan at any one time, the plan provides that each of the beneficiaries under the plan is required to be connected to the subscriber by blood relationship or adoption;

(k) the plan provides that the aggregate of payments made into the plan in respect of a beneficiary for a year shall not exceed \$1,500; and



(l) the plan complies with prescribed conditions."

(10) Subsection 146.1(4) of the said Act is repealed and the following substituted therefor:

Registration of plans without prospectus

"(4) Notwithstanding paragraph (2)(e), where a promoter has not filed a prospectus in respect of an education savings plan referred to in that paragraph, the Minister may register the plan if the promoter is not otherwise required by the laws of Canada or a province to file such a prospectus with a securities commission in Canada or a body performing a similar function in a province and the plan complies with the other conditions set out in subsection (2)."

(11) Section 146.1 of the said Act is further amended by adding thereto, immediately after subsection (6) thereof, the following subsections:

Change of beneficiary

"(6.1) Where an individual becomes a beneficiary under a registered education savings plan in the place of another beneficiary, all payments made into the plan in respect of the other beneficiary shall be deemed to have been made in respect of the individual.

Removal of beneficiary

(6.2) Where a particular beneficiary under a registered education savings plan is removed from the plan, and no other individual becomes a beneficiary in the place of the particular beneficiary

(a) the total of all payments made into the plan in respect of the particular beneficiary must be allocated in the year the particular beneficiary is removed among the remaining beneficiaries, if any, in respect of the plan, and

(b) the payments so allocated shall be deemed to have been made into the plan in respect of those remaining beneficiaries.

Payments between plans

(6.3) For the purposes of this section and Part X.4, where a payment described in subparagraph (1)(h)(v) is made into a plan, the plan shall be deemed to be a continuation of the plan from which the payment was received."

(12) Subsections (1), (2), (3) and (11) are applicable after February 20,

1990.

(13) Subsections (4), (5), (7) and (8) are applicable after Announcement Date.

(14) Subsections (6) and (9) are applicable to plans entered into after February 20, 1990, except that paragraph 146.1(2)(j) of the said Act, as enacted by subsection (9), is not applicable to plans entered into on or before Announcement Date.

(15) Subsection (10) is applicable to plans registered after February 20, 1990.

115. (1) Paragraph 146.3(2)(e) of the said Act is repealed and the following substituted therefor:

"(e) the fund provides that, at the direction of the annuitant, the carrier shall, in prescribed form and manner, transfer all or part of the property held in connection with the fund, or an amount equal to its value at the time of such direction (other than property required to be retained in accordance with the provision described in paragraph (e.1)) together with all information necessary for the continuance of the fund, to any person who has agreed to be a carrier of another registered retirement income fund of the annuitant;

(e.1) the fund provides that where an annuitant, at any time, directs that the carrier transfer all or part of the property held in connection with the fund, or an amount equal to its value at that time, to any person who has agreed to be a carrier of another registered retirement income fund, as described in paragraph (e), the carrier shall retain an amount equal to the lesser of

(i) the fair market value of such portion of the property as would, if the fair market value thereof does not decline after the transfer, be sufficient to ensure that the minimum amount under the fund for the year in which the transfer is made may be paid to the annuitant in the year, and

(ii) the fair market value of all the property;"

(2) Subsection (1) is applicable with respect to retirement income funds entered into after Announcement Date.

116. (1) All that portion of subsection 148(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Deemed proceeds of disposition

"(2) For the purposes of subsection 20(20), subsection (1) and paragraph (9)(a),"

(2) Paragraphs 148(8)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) an interest of a policyholder in a life insurance policy (other than an annuity contract) has been transferred to the policyholder's child for no consideration, and

(b) a child of the policyholder or a child of the transferee is the person whose life is insured under the policy,"

(3) Section 148 of the said Act is further amended by adding thereto, immediately after subsection (8) thereof, the following subsections:

*Inter vivos transfer to spouse*

"(8.1) Notwithstanding any other provision in this section, where

(a) an interest of a policyholder in a life insurance policy (other than a policy that is or is issued pursuant to a plan or contract referred to in any of paragraphs (1)(a) to (e)) has been transferred to

(i) the policyholder's spouse,

(ii) a former spouse of the policyholder in settlement of rights arising out of their marriage, or

(iii) an individual of the opposite sex pursuant to an order for the support or maintenance of the individual made by a competent tribunal in accordance with the laws of a province, where the individual and the taxpayer cohabited in a conjugal relationship before the date of the order, and

(b) both the policyholder and the transferee were resident in Canada at the time of the transfer,

the interest shall be deemed to have been disposed of by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the transferee at a cost equal to those proceeds.

*Transfer to spouse at death*



(8.2) Notwithstanding any other provision in this section, where, as a consequence of the death of a policyholder who was resident in Canada immediately before the policyholder's death, an interest of the policyholder in a life insurance policy (other than a policy that is or is issued pursuant to a plan or contract referred to in any of paragraphs (1)(a) to (e)) has been transferred or distributed to the policyholder's spouse who was resident in Canada immediately before the policyholder's death, the interest shall be deemed to have been disposed of by the policyholder immediately before the policyholder's death for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the spouse at a cost equal to those proceeds."

(4) Subparagraph 148(9)(a)(v.1) of the said Act is repealed and the following substituted therefor:

"(v.1) in the case of an interest in a life annuity contract, as defined by regulation, to which subsection 12.2(1) applies for the taxation year that includes that time (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), the aggregate of all amounts each of which is a mortality gain, as defined by regulation and determined by the issuer of the contract in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing before that time"

(5) Subparagraph 148(9)(a)(x) of the said Act is repealed and the following substituted therefor:

"(x) in the case of an interest in an annuity contract to which subsection 12.2(1) applies for the taxation year that includes that time (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), the aggregate of all amounts each of which is an annuity payment paid in respect of the interest before that time and while the policyholder held the interest, and"

(6) Subsection (1) is applicable with respect to dispositions occurring after 1989.

(7) Subsections (2) and (3) are applicable with respect to transfers and distributions occurring after 1989.

(8) Subsections (4) and (5) are applicable with respect to policies last acquired after 1989.



117. (1) Paragraph 149(1)(t) of the said Act is repealed and the following substituted therefor:

Farmer's and fisherman's insurer.

"(t) an insurer who was engaged during the period in no business other than insurance if, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the Superintendent of Insurance of the province under whose laws the insurer is incorporated, not less than 25% of the total of the gross premium income (net of reinsurance ceded) earned in the period by the insurer and, where the insurer is not a prescribed insurer, of all other insurers that

(i) were specified shareholders of the insurer,

(ii) were related to the insurer, or

(iii) where the insurer is a mutual corporation, were part of a group that controlled, directly or indirectly in any manner whatever, or were controlled, directly or indirectly in any manner whatever, by the insurer,

was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen;"

(2) Subsections 149(4.1) and (4.2) of the said Act are repealed and the following substituted therefor:

Idem

"(4.1) Subject to subsection (4.2), subsection (1) shall apply in respect of an insurer described in paragraph (1)(t) only in respect of that proportion of the insurer's taxable income for a taxation year that

(a) the part of the gross premium income (net of reinsurance ceded) earned in the year by the insurer that, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the Superintendent of Insurance of the province under whose laws the insurer is incorporated, was in respect of insurance of farm property, property used in fishing or residences of farmers or fishermen

is of

(b) the gross premium income (net of reinsurance ceded) earned in the year by the insurer.

Idem

(4.2) Subsection (4.1) shall not apply in respect of an insurer described in paragraph (1)(t) in respect of the taxable income of the insurer for a taxation year where more than 90% of the total of the gross premium incomes (net of reinsurance ceded) earned in the year by the insurer and, where the insurer is not a prescribed insurer, all other insurers that

(a) were specified shareholders of the insurer,

(b) were related to the insurer, or

(c) where the insurer is a mutual corporation, were part of a group that controlled, directly or indirectly in any manner whatever, or were controlled, directly or indirectly in any manner whatever, by the insurer,

was in respect of insurance of farm property, property used in fishing or residences of farmers or fishermen.

Computation of taxable income of insurer

(4.3) For the purposes of this Part, in computing the taxable income of an insurer for a particular taxation year, the insurer shall be deemed to have claimed or deducted under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 in each of the taxation years preceding the particular year and in respect of which paragraph 149(1)(t) applied to the insurer, the greater of

(a) the amount it claimed or deducted under those provisions for that preceding year, and

(b) the greatest amount that could have been claimed or deducted under those provisions to the extent that the total thereof does not exceed the amount that would be its taxable income for that preceding year if no amount had been claimed or deducted under those provisions."

(3) Subsections (1) and (2) are applicable to the 1989 and subsequent taxation years.

118. (1) All that portion of subparagraph 149.1(1)(e)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(i) 80% of the total of all amounts each of which is the amount of a gift for which the foundation issued a receipt

described in subsection 110.1(2) or 118.1(2) in its immediately preceding taxation year, other than"

(2) Subparagraph 149.1(1)(e.1)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) a share of a class of the capital stock of a corporation (other than an excluded corporation) referred to in subparagraph (i) held by the foundation (other than a share listed on a prescribed stock exchange or a share that would be a qualifying share within the meaning assigned by subsection 192(6) if that subsection were read without reference to the words "issued after May 22, 1985" and before 1987"), and"

(3) All that portion of paragraph 149.1(1)(e.1) of the said Act following subparagraph (iii) thereof is repealed and the following substituted therefor:

"and for the purpose of this definition, an "excluded corporation" is

(iv) a limited-dividend housing company to which paragraph 149(1)(n) applies,

(v) a corporation all of the property of which is used by a registered charity in its administration or in carrying on its charitable activities, or

(vi) a corporation all of the issued shares of which are held by the foundation;"

(4) Section 149.1 of the said Act is amended by adding thereto, immediately after subsection (6.3) thereof, the following subsections:

National arts service organizations

"(6.4) Where an organization

(a) that has, upon written application to the Minister of Communications describing all of its objects and activities, been designated by that Minister on approval of those objects and activities to be a national arts service organization,

(b) that has, as its exclusive purpose and its exclusive function, the promotion of arts in Canada on a nation-wide basis,

(c) that is resident in Canada and was formed or created in Canada, and



(d) that complies with prescribed conditions

has made application for registration in prescribed form to the Minister of National Revenue, the Minister of National Revenue may register the organization for the purposes of this Act and, where the organization has been so registered, sections 110.1, 118.1, this section and sections 168, 172, 180 and 230 and Part V apply, with such modifications as the circumstances require, to the organization as if it were a registered charity which is designated as a charitable organization.

#### Revocation of designation

(6.5) The Minister of Communications may, at any time, revoke the designation of an organization made for the purposes of subsection (6.4) where

(a) an incorrect statement was made in the furnishing of information for the purpose of obtaining the designation,

(b) the organization has amended its objects after its last designation was made, or

(c) the organization has undertaken activities that are inconsistent with its objects,

and where the designation is so revoked the organization shall be deemed for the purposes of section 168 to have ceased to comply with the requirements of this Act for its registration under this Act."

(5) All that portion of subsection 149.1(9) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"shall, notwithstanding subsection (8), be deemed to be income of the charity for, and the amount of a gift for which it issued a receipt described in subsection 110.1(2) or 118.1(2) in, its taxation year in which the period referred to in paragraph (a) expires or the time referred to in paragraph (b) occurs, as the case may be."

(6) Subsections (1) and (5) are applicable to the 1988 and subsequent taxation years except that, in its application to the 1988 taxation year, the reference to "subsection 110.1(2) or 118.1(2)" in subparagraph 149.1(1)(e)(i) of the said Act, as amended by subsection (1), shall be read as a reference to "paragraph 110.1(a) or subsection 110.1(2) or 118.1(2)".

(7) Subsection (2) is applicable with respect to shares issued after May 22, 1985, other than shares issued before 1986 to which subsection 192(6) of the said Act, as it read on May 22, 1985, is applicable.



(8) Subsection (3) is applicable to taxation years commencing after 1983.

(9) Subsection (4) is applicable after Announcement Date except that, where an organization has made application to the Minister of National Revenue under subsection 149.1(6.4) of the said Act, as enacted by subsection (4), before the day on which this Act is assented to and the Minister of National Revenue has accepted the application as meeting the requirements of that subsection, the national arts service organization shall be deemed to have become registered under subsection 149.1(6.4) of the said Act, as enacted by subsection (4),

(a) where paragraph (b) does not apply, on the day the application for registration of the organization was made; and

(b) where in the application for registration a later day is specified as the day upon which the organization is to become registered, on that later day.

119. (1) Paragraph 150(1)(b) of the said Act is repealed and the following substituted therefor:

Deceased individuals

"(b) in the case of an individual who has died after October 31 in the year and before May 1 in the immediately following taxation year, by the individual's legal representatives within 6 months after the day of death,"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

120. (1) Paragraph 153(1)(f) of the said Act is repealed and the following substituted therefor:

"(f) an annuity payment or a payment in full or partial commutation of an annuity,"

(2) Paragraph 153(1)(l) of the said Act is repealed and the following substituted therefor:

"(l) a payment out of or under a registered retirement income fund or a fund referred to in subsection 146.3(11) as an "amended fund","

(3) Subsection 153(1) of the said Act is further amended by adding thereto, immediately after paragraph (m) thereof, the following paragraph:

"(m.1) an income assistance payment made pursuant to an agreement under section 5 of the *Department of Labour Act*,"

(4) Subsection 153(2) of the said Act is repealed and the following substituted therefor:

Payment of remainder

"(2) Where amounts have been deducted or withheld under this section from the remuneration or other payments received by an individual in a taxation year, if the total of the remuneration and other payments from which such amounts have been deducted or withheld and which the individual had received in the year is equal to or greater than 3/4 of the individual's income for the year, the individual shall, on or before the individual's balance due day for the year, pay to the Receiver General the remainder of the individual's tax for the year as estimated under section 151."

(5) Subsections (1) to (3) are applicable with respect to payments made after Announcement Date.

(6) Subsection (4) is applicable to the 1990 and subsequent taxation years.

121. (1) Subsection 155(1) of the said Act is repealed and the following substituted therefor:

Farmers and fishermen

"155.(1) Subject to section 156.1, every individual whose chief source of income is farming or fishing, other than an individual to whom subsection 153(2) applies, shall pay to the Receiver General in respect of each taxation year

(a) on or before December 31 in the year, 2/3 of

(i) the amount estimated by the individual to be the tax payable under this Part by the individual for the year, or

(ii) the individual's instalment base for the immediately preceding taxation year; and

(b) on or before the individual's balance due day for the year, the remainder of the individual's tax as estimated under section 151."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

122. (1) Subsection 156(1) of the said Act is repealed and the following substituted therefor:

Other individuals

"156.(1) Subject to section 156.1, every individual, other than one to whom subsection 153(2) or section 155 applies, shall pay to the Receiver General in respect of each taxation year

(a) on or before March 15, June 15, September 15 and December 15 in the year, an amount equal to 1/4 of

(i) the amount estimated by the individual to be the tax payable under this Part by the individual for the year, or

(ii) the individual's instalment base for the immediately preceding taxation year; and

(b) on or before the balance due day in respect of the individual for the year, the remainder of the individual's tax estimated under section 151."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

123. (1) Section 156.1 of the said Act is repealed and the following substituted therefor:

No instalment required

"156.1(1) Where the total of the taxes payable under this Part and Part I.1 by an individual for a particular taxation year or for the taxation year immediately preceding that year is not more than the total of \$1,000 and the amount, if any, determined in respect of the individual for that year under subsection 120(2),

(a) sections 155 and 156 are not applicable in respect of that individual for the particular year; and

(b) the individual shall pay to the Receiver General, on or before the individual's balance due day for the particular year, the individual's tax as estimated under section 151 for the particular year.

Idem

(2) Where an individual has died in a taxation year, paragraphs 155(1)(a) and 156(1)(a) shall not require the payment of any



amount in respect of the individual that would otherwise become due thereunder on or after the day on which the individual died."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

124. (1) Paragraph 157(2.1)(a) of the said Act is repealed and the following substituted therefor:

"(a) the total of the taxes payable under this Part and Part VI.1 by a corporation for a taxation year, or"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

125. (1) All that portion of subsection 159(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Certificate before distribution

"(2) Every person (other than a trustee in bankruptcy) who is an assignee, liquidator, receiver, receiver-manager, administrator, executor or any other like person (in this section referred to as the "responsible representative") administering, winding up, controlling or otherwise dealing with a property, business or estate of another person shall, before distributing to one or more persons any property over which the responsible representative has control in the capacity of the responsible representative, obtain a certificate from the Minister, by making application therefor in prescribed form, certifying that all amounts"

(2) Subsection (1) is applicable with respect to applications made after the day on which this Act is assented to.

126. (1) Paragraph 160.1(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) the taxpayer shall pay to the Receiver General interest at the prescribed rate on the excess (other than any portion thereof that may reasonably be considered to arise as a consequence of the operation of section 122.5) from the day it became payable to the date of payment."

(2) Section 160.1 of the said Act is further amended by adding thereto the following subsection:

Where amount applied to liability



"(4) Where an amount has been applied to a liability of a taxpayer in excess of the amount to which the taxpayer was entitled as a refund under this Act, this section applies as though that amount had been refunded to the taxpayer on the day on which it was so applied."

(3) Subsection (1) is applicable to the 1989 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1990 and subsequent taxation years.

127. (1) Paragraph 161(2.2)(b) of the said Act is repealed and the following substituted therefor:

"(b) in the case of an individual, on the individual's balance due day for the year,"

(2) Subsection 161(3) of the said Act is repealed

(3) Subsection (1) is applicable to the 1990 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1988 and subsequent taxation years.

128. (1) Section 162 of the said Act is amended by adding thereto the following subsection:

Effect of carryback of losses etc.

"(11) In determining a person's tax for a taxation year for the purpose of computing a penalty under subsection (1) or (2) in respect of the person's return of income for the year, paragraph 161(7)(a) applies with such modifications as the circumstances require."

(2) Subsection (1) is applicable with respect to amounts referred to in paragraph 161(7)(a) of the said Act in respect of subsequent taxation years ending after Announcement Date.

129. (1) Section 163 of the said Act is amended by adding thereto, immediately after subsection (2.2) thereof, the following subsection:

Idem

"(2.3) Every person who, knowingly, or under circumstances amounting to gross negligence has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a

prescribed form required to be filed under subsection 66(12.691) or (12.701) is liable to a penalty of 25% of the amount, if any, by which

(a) the assistance required to be reported in respect of a person or partnership in the prescribed form

exceeds

(b) the assistance reported in the prescribed form in respect of the person or partnership."

(2) Section 163 of the said Act is further amended by adding thereto the following subsection:

Effect of carryback of losses etc.

"(4) In determining under subsection (2.1) the understatement of income for a taxation year of a person, the following amounts shall be deemed not to be deductible or excludable in computing the person's income for the year:

(a) any amount that may be deducted under section 41 in respect of the person's listed-personal-property loss for a subsequent taxation year;

(b) any amount that may be excluded from the person's income by reason of section 49 in respect of the exercise of any option in a subsequent taxation year; and

(c) any amount that may be deducted in computing the person's income for the year by reason of an election made in a subsequent taxation year under paragraph 164(6)(c) or (d) by the person's legal representative."

(3) Subsection (2) is applicable with respect to amounts referred to in subsection 163(4) of the said Act, as enacted by subsection (2), in respect of subsequent taxation years ending after Announcement Date.

130. (1) Paragraph 164.1(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) where the child was under 6 years of age at the end of the preceding taxation year and no amount was deducted for that year under section 63 in respect of any child of the individual under 6 years of age at the end of that year, the aggregate of the amounts of \$559 and \$200 referred to in paragraph 122.2(1)(a), and"

(2) Paragraph 164.1(1)(d) of the said Act is repealed and the following substituted therefor:

"(d) the aggregate determined under subparagraph 122.2(1)(b)(i) in respect of the individual did not exceed,

(i) where the amount or amounts to be paid by reason of this subsection are in respect of 3 or more eligible children of the individual, \$24,090, and

(ii) in any other case, 2/3 of \$24,090."

(3) Subsection (1) is applicable to the 1989 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1990 and subsequent taxation years.

131. (1) Section 165 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Limitation of right to  
object to assessments or determinations

"(1.1) Notwithstanding subsection (1), where the Minister assesses tax, interest or penalties payable under this Part by a taxpayer or makes a determination in respect of a taxpayer

(a) under subparagraph 152(4)(b)(i) or subsection 152(6), 164(4.1) or 245(8) or in accordance with an order of a Court vacating, varying or restoring the assessment or referring the assessment back to the Minister for reconsideration and reassessment, or

(b) under subsection 165(3) where the underlying objection relates to an assessment or determination made under any of the provisions or circumstances referred to in paragraph (a),

the taxpayer may object to the assessment or determination within 90 days from the day of mailing of the notice of assessment or determination only to the extent that the reasons for the objection may reasonably be regarded as relating to a matter that gave rise to the assessment or determination and that was not conclusively determined by the Court."

(2) All that portion of subsection 165(7) preceding paragraph (a) thereof of the said Act is repealed and the following substituted therefor:



No notice of objection required in respect  
of reassessment or additional assessment

"(7) Where a taxpayer has served in accordance with this section a notice of objection to an assessment and thereafter the Minister reassesses the tax, interest, penalties or other amount in respect of which the notice of objection was served or makes an additional assessment in respect thereof and sends to the taxpayer a notice of the reassessment or of the additional assessment, as the case may be, the taxpayer may, without serving a notice of objection to the reassessment or additional assessment,"

(3) Subsection (1) is applicable with respect to objections filed after the day on which this Act is assented to.

(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.

132. (1) Section 167 of the said Act is repealed and the following substituted therefor:

Extension of time by Minister

"166.1(1) Where no notice of objection to an assessment has been served under section 165, or request under subsection 245(6) has been made, within the time limited by those provisions for doing so, the taxpayer may apply to the Minister to extend the time for serving the notice of objection or making the request.

Contents of application

(2) An application made under subsection (1) shall set out the reasons why the notice of objection or the request was not served or made, as the case may be, within the time otherwise limited by this Act for doing so.

How application made

(3) An application under subsection (1) shall be made by sending by registered mail to the Deputy Minister of National Revenue for Taxation two copies of the application accompanied by 2 copies of the notice of objection or 2 copies of the request, as the case may be.

Idem

(4) The Minister may accept an application under this section notwithstanding that it was not made in duplicate or in the manner required by subsection (3).



## Duties of Minister

(5) On receipt of an application made under subsection (1) the Minister shall, with all due dispatch, consider the application and grant or refuse it, and shall thereupon notify the taxpayer of the decision by registered mail.

## Date of objection or request if application granted

(6) Where an application made under subsection (1) is granted, the notice of objection or the request, as the case may be, shall be deemed to have been served or made on the day the decision of the Minister is mailed to the taxpayer.

## When order to be made

(7) No application shall be granted under this section unless

(a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such notice or making such request, as the case may be,

(A) the taxpayer was unable to act or to instruct another to act in the taxpayer's name, or

(B) the taxpayer had a bona fide intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made as soon as circumstances permitted.

### Extension of time by Tax Court

166.2(1) A taxpayer who has made an application under subsection 166.1 may apply to the Tax Court of Canada to have the application granted after either

- (a) the Minister has refused the application, or
- (b) 90 days have elapsed after service of the application under subsection 166.1(1) and the Minister has not notified the taxpayer of the Minister's decision,

but no application under this section may be made after the expiration of 30 days from the day on which notification of the decision was mailed to the taxpayer.

### How application made

(2) An application under subsection (1) shall be made by filing with the Registrar of the Tax Court of Canada or by sending by registered mail addressed to the Registrar at Ottawa 3 copies of the documents referred to in subsection 166.1(3) and 3 copies of the notification, if any, referred to in subsection 166.1(5).

### Copy to Deputy Minister

(3) The Tax Court of Canada shall send a copy of each application made under this section to the office of the Deputy Minister of National Revenue for Taxation.

### Powers of Court

(4) The Tax Court of Canada may grant or dismiss an application made under subsection (1) and, in granting an application, may impose such terms as it deems just or order that the notice of objection be deemed to have been served on the date of its order.

### When application to be granted

- (5) No application shall be granted under this section unless
  - (a) the application was made under subsection 166.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and
  - (b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such notice or making such request, as the case may be,

(A) the taxpayer was unable to act or to instruct another to act in the taxpayer's name, or

(B) the taxpayer had a bona fide intention to object to the assessment or make the request;

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made under subsection 166.1(1) as soon as circumstances permitted.

#### Extension of time to appeal

167.(1) Where an appeal to the Tax Court of Canada has not been instituted by a taxpayer under section 169 within the time limited by that section for doing so, the taxpayer may make an application to the Court for an order extending the time within which the appeal may be instituted and the Court may make an order extending the time for appealing and may impose such terms as it deems just.

#### Contents of application

(2) An application made under subsection (1) shall set out the reasons why the appeal was not instituted within the time limited by section 169 for doing so.

#### How application made

(3) An application under subsection (1) shall be made by filing with the Registrar of the Tax Court of Canada or by sending by registered mail addressed to the Registrar at Ottawa 3 copies of the application accompanied by three copies of the notice of appeal.

#### Copy to Deputy Attorney-General

(4) The Tax Court of Canada shall send a copy of each application made under this section to the office of the Deputy Attorney General of Canada.

#### When order to be made

(5) No order shall be made under this section unless

(a) the application is made within one year after the expiration of the time limited by section 169 for appealing; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by section 169 for appealing

(A) the taxpayer was unable to act or to instruct another to act in the taxpayer's name, or

(B) the taxpayer had a bona fide intention to appeal,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,

(iii) the application was made as soon as circumstances permitted, and

(iv) there are reasonable grounds for the appeal."

(2) Subsection (1) shall come into force on a day to be fixed by order of the Governor in Council and is applicable with respect to applications to extend the time to object or appeal filed on or after that day and applications to extend the time to object or appeal pending before the Tax Court of Canada or the Federal Court of Canada on that day shall be heard and disposed of before the Tax Court of Canada or the Federal Court of Canada, as the case may be, as though subsection (1) had not come into force.

133. (1) Section 169 of the said Act is renumbered as subsection 169(1).

(2) Section 169 of the said Act is further amended by adding thereto the following subsection:

Idem

"(2) Notwithstanding subsection (1), where the Minister assesses tax, interest or penalties payable under this Part by a taxpayer or makes a determination in respect of a taxpayer

(a) under subparagraph 152(4)(b)(i) or subsection 152(6), 164(4.1) or 245(8) or in accordance with an order of a Court vacating, varying or restoring the assessment or referring the assessment back to the Minister for reconsideration and reassessment, or



(b) under subsection 165(3) where the underlying objection relates to an assessment or determination made under any of the provisions or circumstances referred to in paragraph (a),

the taxpayer may appeal to the Tax Court of Canada within the time limit specified in subsection (1) only to the extent that the reasons for the appeal may reasonably be regarded as relating to a matter that gave rise to the assessment or determination and that was not conclusively determined by the Court."

(3) Subsections (1) and (2) are applicable with respect to appeals from assessments or determinations objected to after the day on which this Act is assented to.

134. (1) Paragraph 172(3)(a) of the said Act is repealed and the following substituted therefor:

"(a) refuses to register an applicant for registration as a charitable organization, private foundation, public foundation or Canadian amateur athletic association, or gives notice under subsection 149.1(2), (3), (4) or (4.1) or 168(1) to any such organization, foundation or association that the Minister proposes to revoke its registration,"

(2) Subsection (1) is applicable after 1989.

135. (1) Paragraph 180(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) the mailing of notice to the registered charity or registered Canadian amateur athletic association under subsections 149.1(2), (3), (4) or (4.1) or 168(1),"

(2) Subsection (1) is applicable after 1989.

136. (1) Paragraph 180.1(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) 5% of the amount, if any, by which the tax payable under Part I by the individual for the year exceeds \$12,500."

(2) Subsection (1) is applicable to the 1991 and subsequent taxation years.

137. (1) Subparagraph 180.2(1)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) the amount that would be the individual's income under Part I for the year if no amount were

(A) deductible under paragraph 60(w), nor

(B) included in respect of a gain from a disposition of property to which section 79 applies

in computing that income"

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years.

138. (1) Paragraph (f) of the definition "financial institution" in subsection 181(1) of the said Act is repealed and the following substituted therefor:

"(f) a mortgage investment corporation, or"

(2) Subsection (1) is applicable to taxation years ending after June 1989.

139. (1) All that portion of subsection 181.1(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Tax payable

"181.1(1) Every corporation shall pay a tax under this Part for each taxation year equal to 0.2% of the amount, if any, by which"

(2) Subsection 181.1(3) of the said Act is amended by striking out the word "or" at the end of paragraph (c) thereof, by adding the word "or" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) that was throughout the year a deposit insurance corporation (within the meaning assigned by subsection 137.1(5)) or a corporation deemed by subsection 137.1(5.1) to be a deposit insurance corporation."

(3) Subsection (1) is applicable to the 1991 and subsequent taxation years except that, in its application to taxation years commencing before 1991 and ending after 1990, there may be deducted from the tax otherwise payable under subsection 181.1(1) of the said Act, as amended by subsection (1), an amount equal to that proportion of 1/8 of the tax otherwise payable under that subsection of the said Act that the number of days in the year that are before 1991 is of the number of days in the year.

(4) Subsection (2) is applicable to taxation years ending after June 1989.

140. (1) Subsection 181.2(3) of the said Act is amended by striking out the word "and" at the end of paragraph (h) thereof, by adding the word "and" at the end of paragraph (i) thereof and by adding thereto the following paragraph:

"(j) any amount deducted under subsection 135(1) in computing its income under Part I for the year, to the extent that the amount may reasonably be regarded as being included in the amount determined under any of paragraphs (a) to (g) in respect of the corporation for the year."

(2) Subsection 181.2(4) of the said Act is amended by striking out the word "or" at the end of paragraph (d) thereof, by adding the word "or" at the end of paragraph (e) thereof and by repealing all that portion thereof following paragraph (e) thereof and substituting the following therefor:

"(f) a dividend payable to the corporation at the end of the year on a share of the capital stock of another corporation,

other than a share of the capital stock of, a dividend payable by, or indebtedness of, a corporation that is exempt from tax under this Part (otherwise than by reason of paragraph 181.1(3)(d))."

(3) Paragraph 181.2(5)(a) of the said Act is repealed and the following substituted therefor:

"(a) the total of all amounts each of which is the carrying value of an asset of the partnership, at the end of its last fiscal period ending at or before the end of the year, described in any of paragraphs (4)(a) to (d) and (f), other than an asset that is a share of the capital stock of, a dividend payable by, or indebtedness of, a corporation that is exempt from tax under this Part (otherwise than by reason of paragraph 181.1(3)(d))."

(4) Subsections (1) to (3) are applicable to taxation years ending after June 1989.

141. (1) Paragraph 181.3(3)(a) of the said Act is amended by striking out the word "and" at the end of subparagraph (iv) thereof, by adding the word "and" at the end of subparagraph (v) thereof and adding thereto the following subparagraph:

"(vi) any amount deducted under subsection 130.1(1) or 137(2) in computing its income under Part I for the year, to the extent that the amount may reasonably be regarded as being included in the amount determined under subparagraph (i), (ii) or (iii) in respect of the institution for the year;"



(2) Subparagraph 181.3(3)(d)(i) of the French version of the said Act is repealed and the following substituted therefor:

"(i) le plus élevé de son fonds excédentaire résultant de l'activité, au sens de l'alinéa 138(12)o), ou de son surplus attribué pour l'année,"

(3) Paragraph 181.3(4)(a) of the said Act is repealed and the following substituted therefor:

"(a) in the case of a financial institution that was resident in Canada at any time in the year, the aggregate of all amounts each of which is the carrying value of an asset of the financial institution that is a share of the capital stock of, a dividend payable by or long-term debt of, another financial institution (other than an institution that is exempt from tax under this Part) that is related to the institution (and, in the case of a financial institution that is an insurance corporation, that is non-segregated property, within the meaning assigned by paragraph 138(12)(j)),"

(4) Subparagraph 181.3(4)(b)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) is a share of the capital stock of, a dividend payable by or long-term debt of another financial institution (other than an institution that is exempt from tax under this Part) that is related to the institution, and"

(5) All that portion of subsection 181.3(4) of the said Act following paragraph (c) thereof is repealed and the following substituted therefor:

"and, for the purposes of this subsection, a credit union and another credit union of which the credit union is a shareholder or member shall be deemed to be related to each other".

(6) Subsections (1) to (5) are applicable to taxation years ending after June 1989.

142. (1) Section 181.4 of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) the aggregate of all amounts each of which is the carrying value at the end of the year of an asset of the corporation that

(i) is a ship or aircraft operated by the corporation in international traffic or is personal property used in its



business of transporting passengers or goods in international traffic, and

(ii) was used by the corporation in the year in, or held by it in the year in the course of, carrying on any business during the year through a permanent establishment in Canada

if the country in which the corporation is resident imposed neither a capital tax for that year on similar assets, nor a tax for that year on the income from the operation of a ship or aircraft in international traffic, of any corporation resident in Canada during that year."

(2) Subsection (1) is applicable to taxation years ending after June 1989.

143. (1) Paragraph 181.7(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) the remainder of its tax payable under this Part for the year, on or before the day on or before which the corporation is, pursuant to paragraph 157(1)(b), required to pay the remainder of its tax payable under Part I for the year or would be so required if a remainder of such tax were payable and clause 157(1)(b)(i)(A) were read as follows:

"(A) the corporation carried on an active business in Canada in the year or in its immediately preceding taxation year, and"."

(2) Subsection (1) is applicable to taxation years ending after June, 1989.

144. (1) Subsection 184(4) of the said Act is repealed and the following substituted therefor:

Concurrence with election

"(4) An election under subsection (3) is not valid unless

(a) it is made with the concurrence of the corporation and of all of the shareholders

(i) who received or were entitled to receive all or any portion of the dividend in respect of which a tax would, but for subsection (3), be payable under this Part, and

(ii) whose addresses were known to the corporation; and

(b) either

(i) it is made on or before the day that is 30 months after the day on which the dividend became payable, or

(ii) each shareholder described in subparagraph (a)(i) concurs with the election, in which case the Minister may, notwithstanding subsections 152(4) to (5), make such assessment or reassessment of the tax, interest and penalties payable by each such shareholder for any taxation year as is necessary to take the corporation's election into account."

(2) Subsection (1) is applicable to elections made after Announcement Date.

145. (1) Section 185 of the said Act is amended by adding thereto the following subsections:

Joint and several liability in respect of tax on excessive elections

"(4) Each person who has received a dividend from a corporation in respect of which the corporation has made an election in accordance with subsection 83(2), 130.1(4) or 131(1) is jointly and severally liable with the corporation to pay that proportion of the corporation's tax payable under this Part by reason of the election that

(a) the amount of the dividend received by the person

is of

(b) the full amount of the dividend in respect of which the election was made,

but nothing in this subsection shall be deemed to limit the liability of any person under any other provision of this Act.

Assessment

(5) The Minister may at any time after the last day on which a corporation may make an election under subsection 184(3) in respect of a dividend assess a person in respect of any amount payable by reason of subsection (4) in respect of the dividend and the provisions of Division I of Part I are applicable, with such modifications as the circumstances require, in respect of an assessment made under this subsection as though it had been made under section 152.

Rules applicable

(6) Where a corporation and another person have, by reason of subsection (4), become jointly and severally liable to pay part or all of the corporation's tax payable under this Part in respect of a dividend described in subsection (4),

(a) a payment at any time by the other person on account of the liability shall to the extent of the payment discharge the joint liability after that time; and

(b) a payment at any time by the corporation on account of its liability shall discharge the other person's liability only to the extent of that proportion of the amount, if any, by which the total of

(i) the amount of the corporation's liability, immediately before that time, under this Part in respect of the full amount of the dividend, and

(ii) the amount of the payment

exceeds

(iii) the amount of the corporation's liability, immediately before that time, under this Act

that

(iv) the amount of the dividend received by the other person

is of

(v) the full amount of the dividend."

(2) Subsection (1) is applicable with respect to dividends paid after Announcement Date.

146. (1) Paragraph 187.1(a) of the said Act is repealed and the following substituted therefor:

"(a) received by a corporation on a share of the capital stock of a foreign affiliate of the corporation, other than a dividend received by a specified financial institution on a share acquired in the ordinary course of the business carried on by the institution;"

(2) Subsection (1) is applicable with respect to dividends received after 1987.

147. (1) Paragraph 188(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) the total of all amounts each of which is an amount of a gift for which it issued a receipt described in subsection 110.1(2) or 118.1(2) after the day referred to in paragraph (a) or an amount received after that date from a registered charity"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

148. (1) The definition "financial institution" in subsection 190(1) of the said Act is amended by striking out the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraphs:

"(d) is a life insurance corporation that carries on business in Canada, or

(e) is a corporation all or substantially all of the assets of which are shares or indebtedness of corporations described in any of paragraphs (a) to (d) or this paragraph to which the corporation is related;"

(2) Subsection 190(1.1) of the said Act is repealed and the following substituted therefor:

Prescribed meanings

"(1.1) For the purposes of this Part, the expressions "attributed surplus", "Canadian assets", "Canadian reserve liabilities", "total assets" and "total reserve liabilities" have such meanings as may be prescribed."

(3) Subsections (1) and (2) are applicable to taxation years ending after February 20, 1990.

149. In its application to taxation years commencing before February 21, 1990 of corporations described in paragraph (d) or (e) of the definition "financial institution" in subsection 190(1) of the said Act, as enacted by this Act, section 190.1 of the Income Tax Act shall be read as follows:

"190.1 Every corporation that is a financial institution at any time during a taxation year shall pay a tax under this Part for the year equal to that proportion of 1.25% of the amount, if any, by which its taxable capital employed in Canada for the year exceeds its capital deduction for the year that the number of days in the year that are after February 20, 1990 is of 365."



150. (1) Section 190.11 of the said Act is repealed and the following substituted therefor:

Taxable capital employed in Canada

"190.11 For the purposes of this Part, the taxable capital employed in Canada of a financial institution for a taxation year is,

(a) in the case of a financial institution other than a life insurance corporation, that proportion of its taxable capital for the year that its Canadian assets at the end of the year is of its total assets at the end of the year;

(b) in the case of a life insurance corporation that was resident in Canada at any time in the year, the total of

(i) that proportion of its taxable capital for the year that its Canadian reserve liabilities as at the end of the year is of its total reserve liabilities as at the end of the year, and

(ii) the amount, if any, by which

(A) the amount of its reserves for the year (other than its reserves in respect of amounts payable out of segregated funds) that may reasonably be regarded as having been established in respect of its insurance businesses carried on in Canada

exceeds the total of

(B) all amounts each of which is the amount of a reserve (other than a reserve described in subparagraph 138(3)(a)(i)) to the extent that it was included in the amount determined under clause (A) and was deducted in computing its income under Part I for the year,

(C) all amounts each of which is the amount of a reserve described in subparagraph 138(3)(a)(i) to the extent that it was included in the amount determined under clause (A) and was deductible under subparagraph 138(3)(a)(i) in computing its income under Part I for the year, and

(D) all amounts each of which is the amount outstanding (including any interest accrued thereon) as at the end of the year in respect of a policy loan (within the meaning assigned by

paragraph 138(12)(k.1)) made by the corporation, to the extent that it was deducted in computing the total determined under clause (C); and

(c) in the case of a life insurance corporation that was throughout the year not resident in Canada, its taxable capital for the year."

(2) Subsection (1) is applicable to taxation years ending after February 20, 1990.

151. (1) Sections 190.13 and 190.14 of the said Act are repealed and the following substituted therefor:

#### Capital

"190.13 For the purposes of this Part, the capital of a financial institution for a taxation year is,

(a) in the case of a financial institution other than a life insurance corporation, the amount, if any, by which the total, computed at the end of the year on a non-consolidated basis, of

(i) the amount of its long-term debt,

(ii) the amount of its capital stock (or, in the case of an institution incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses, and

(iii) the amount of its provisions or reserves (including, for greater certainty, any provision or reserve in respect of deferred taxes), except to the extent that they were deducted in computing its income under Part I for the year,

exceeds the total so computed of

(iv) the amount of its deferred tax debit balance, and

(v) the amount of any deficit deducted in computing its shareholders' equity;

(b) in the case of a life insurance corporation that was resident in Canada at any time in the year, the amount, if any, by which the total, computed at the end of the year on a non-consolidated basis, of

- (i) the amount of its long-term debt, and
- (ii) the amount of its capital stock (or, in the case of an insurance corporation incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses

exceeds the total so computed of

- (iii) the amount of its deferred tax debit balance, and
- (iv) the amount of any deficit deducted in computing its shareholders' equity; and

(c) in the case of a life insurance corporation that was throughout the year not resident in Canada, the total, computed at the end of the year on a non-consolidated basis, of

- (i) the greater of its surplus funds derived from operations (within the meaning assigned by paragraph 138(12)(o)) and its attributed surplus for the year,
- (ii) any other surpluses relating to its insurance businesses carried on in Canada,
- (iii) the amount of its long-term debt that may reasonably be regarded as relating to its insurance businesses carried on in Canada, and
- (iv) the amount, if any, by which
  - (A) the amount of its reserves for the year (other than its reserves in respect of amounts payable out of segregated funds) that may reasonably be regarded as having been established in respect of its insurance businesses carried on in Canada

exceeds the total of

- (B) all amounts each of which is the amount of a reserve (other than a reserve described in subparagraph 138(3)(a)(i)) to the extent that it was included in the amount determined under clause (A) and was deducted in computing its income under Part I for the year,

(C) all amounts each of which is the amount of a reserve described in subparagraph 138(3)(a)(i) to the extent that it was included in the amount determined under clause (A) and was deductible under subparagraph 138(3)(a)(i) in computing its income under Part I for the year, and

(D) all amounts each of which is the amount outstanding (including any interest accrued thereon) as at the end of the year in respect of a policy loan (within the meaning assigned by paragraph 138(12)(k.1)) made by the corporation, to the extent that it was deducted in computing the amount determined under clause (C).

#### Investment in related institutions

190.14 A corporation's investments for a taxation year in a financial institution related to it is,

(a) in the case of a corporation that was resident in Canada at any time in the year, the total of

(i) the cost to it, that would be shown on its balance sheet at the end of the year if its balance sheet were prepared on a non-consolidated basis, of

(A) any share of the capital stock of the financial institution, and

(B) any long-term debt of the financial institution

that is owned by the corporation at the end of the year (and, where the corporation is a life insurance corporation, that is non-segregated property within the meaning assigned by paragraph 138(12)(j)), and

(ii) the amount of any surplus of the financial institution contributed by the corporation, other than an amount included under subparagraph (i); and

(b) in the case of a life insurance corporation that was throughout the year not resident in Canada, the total that would, if the corporation were resident in Canada in the year, be determined under paragraph (a) in respect of the corporation for the year in respect of shares and long-term debt of the financial



institution that were used by the corporation in, or held by it in the year in the course of, carrying on an insurance business in Canada and in respect of surplus of the financial institution contributed by the corporation."

(2) Subsection (1) is applicable to taxation years ending after February 20, 1990.

152. (1) Paragraph 190.15(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) 1/5 of the amount, if any, by which its taxable capital employed in Canada for the year exceeds \$200,000,000,"

(2) Paragraph 190.15(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) 1/5 of the amount, if any, by which the total of all amounts, each of which is the taxable capital employed in Canada of a financial institution for the year that is a member of the related group, exceeds \$200,000,000"

(3) Paragraph 190.15(3)(b) of the said Act is repealed and the following substituted therefor:

"(b) 1/5 of the amount, if any, by which the total of all amounts, each of which is the taxable capital employed in Canada of a financial institution for the year that is a member of the related group, exceeds \$200,000,000."

(4) Subsections (1) to (3) are applicable to the 1990 and subsequent taxation years.

153. (1) In its application to taxation years commencing before July 1990 of corporations described in paragraph (d) or (e) of the definition "financial institution" in subsection 190(1) of the said Act, as enacted by this Act,

(a) section 190.21 of the Income Tax Act shall be read as follows:

"190.21 Every corporation liable to pay tax under this Part for a taxation year shall pay to the Receiver General in respect of the year

(a) where the year ended before July 1990, the tax payable by it under this Part for the year on or before the later of July 1, 1990 and the end of the second month following the end of the year; and

(b) where the year ended after June 1990,

(i) either

(A) on or before July 1, 1990, an amount equal to that proportion of the amount estimated by it to be its tax payable under this Part for the year that

(I) the number of days in the year that are after February 20, 1990 and before July 1990

is of

(II) the number of days in the year that are after February 20, 1990

and on or before the last day of each month ending in the year and after June 1990, an amount equal to the amount, if any, by which

(III) the amount estimated by it to be its tax payable under this Part for the year

exceeds

(IV) the amount payable by the corporation on or before July 1, 1990, as determined under this clause

divided by the number of months ending in the year and after June 1990, or

(B) on or before July 1, 1990, an amount equal to that proportion of its first instalment base for the year that

(I) the number of days in the year that are after February 20, 1990 and before July 1990

is of

(II) the number of days in the year,

and on or before the last day of each month ending in the year and after June 1990, an amount equal to its first instalment base for the year divided by the number of months in the year, and

(ii) on or before the end of the second month following the end of the year, the remainder of its tax payable under this Part for the year."; and

(b) subsection 190.23(3) of the said Act shall be read as follows:

"(3) For the purposes of subsection (2), where a corporation is required to pay an instalment of tax for a taxation year computed by reference to a method described in subsection 190.21, the corporation shall be deemed to have been liable to pay an instalment computed by reference to

(a) its tax payable under this Part for the year, or

(b) its first instalment base for the year,

whichever method gives rise to the least amount required to be paid by the corporation on or before the days referred to in clauses 190.21(b)(i) (A) and (B)."

(2) For the purposes of section 190.22 of the said Act, the tax payable under Part VI of the said Act by a corporation described in paragraph (d) or (e) of the definition "financial institution" in subsection 190(1) of the said Act, as enacted by this Act,

(a) for a taxation year ending before February 21, 1990 shall be deemed to be the amount that would be its tax payable under that Part for the year if that Part applied in respect of that year and its capital deduction under that Part for that year were its capital deduction under that Part for its first taxation year ending after February 20, 1990; and

(b) for its first taxation year ending after February 20, 1990 shall be deemed to be the product obtained when its tax payable under that Part for the year is multiplied by the ratio that the number of days in the year is of the numbers of days in the year ending after February 20, 1990.

154. (1) Paragraph (b) of the definition "private holding corporation" in subsection 191(1) of the said Act is repealed and the following substituted therefor:

"(b) any particular corporation that owns shares of another corporation in which it has a substantial interest except where the other corporation would, but for such substantial interest, be a financial intermediary corporation or a private holding corporation, or"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

155. (1) Subsection 191.3(2) of the said Act is amended by adding the word "and" at the end of paragraph (c) thereof, by striking out the word "and" at the end of paragraph (d) thereof and by repealing paragraph (e) thereof.

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years.

156. (1) The said Act is further amended by adding thereto, immediately after section 204.7 thereof, the following Part:

### "PART X.3

#### REGISTERED LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS

##### Definitions

204.8 In this Part,

"annuitant"  
«rentier»

"annuitant" has the meaning assigned by subsection 146(1);

"eligible business entity"  
«entreprise admissible»

"eligible business entity", at any time, means a particular entity that is a Canadian partnership or a taxable Canadian corporation, all or substantially all of the fair market value of the property of which is, at that time, attributable to

(a) property used in a specified active business carried on by the particular entity or by a corporation controlled by the particular entity,



(b) shares of the capital stock or debt obligations of one or more entities that, at that time, are eligible business entities related to the particular entity, or

(c) any combination of properties described in paragraph (a) or (b);

"eligible investment"

«*placement admissible*»

"eligible investment" of a particular corporation means

(a) a share that was issued to the particular corporation, that is prescribed for the purposes of subsections 110.6(8) and (9) and that is a share of the capital stock of a corporation that was an eligible business entity at the time the share was issued,

(b) a particular debt obligation that was issued to the particular corporation by an entity that was an eligible business entity at the time the particular debt obligation was issued where

(i) the entity is not restricted by the terms of the particular debt obligation or by the terms of any agreement related to that obligation from incurring other debts,

(ii) the particular debt obligation, if secured, is secured solely by a floating charge on the assets of the entity or by a guarantee referred to in paragraph (c), and

(iii) the particular debt obligation, by its terms or any agreement relating to that obligation, is subordinate to all other debt obligations of the entity except that, where the entity is a corporation, the particular debt obligation need not be subordinate to

(A) a debt obligation issued by the entity that is prescribed to be a small business security for the purposes of paragraph (a) of the definition "small business property" in subsection 206(1), or

(B) a debt obligation owing to a shareholder of the entity or to a person related to any such shareholder,

(c) a guarantee provided by the particular corporation in respect of a debt obligation that would, if the debt obligation had been issued to the particular corporation at the time the guarantee was

provided, have been an eligible investment by reason of paragraph (b) at that time, or

(d) an option or right granted by an eligible business entity that is a corporation, in conjunction with the issue of a share or debt obligation that is an eligible investment, to acquire a share of the capital stock of the eligible business entity that would be an eligible investment if that share were issued at the time that the option or right was granted,

if, immediately after the time when the share or debt obligation was issued, the guarantee was provided or the option or right was granted, as the case may be,

(e) the total of the costs to the particular corporation of all shares, options, rights and debt obligations of the eligible business entity and all corporations related thereto and 25% of the amount of all guarantees provided by the particular corporation in respect of debt obligations of such eligible business entity and any corporation related thereto does not exceed the lesser of \$10,000,000 and 10% of the shareholders' equity in the particular corporation at that time, determined in accordance with generally accepted accounting principles, on a cost basis and without taking into account any unrealized gains or losses on the investments of the particular corporation,

(f) the carrying value of the total assets of the eligible business entity and all corporations related thereto (determined in accordance with generally accepted accounting principles on a consolidated or combined basis, where applicable) does not exceed \$35,000,000, and

(g) the number of employees of the eligible business entity and all corporations related thereto does not exceed 500;

"labour-sponsored funds tax credit"

«*crédit d'impôt relatif à un fonds de travailleurs*»

"labour-sponsored funds tax credit" has the meaning assigned by subsection 127.4(1);

"national central labour body"

«*centrale syndicale nationale*»

"national central labour body" means an organization comprised of not less than two trade unions, as defined in the *Canada Labour Code*, each of which represents employees in more than one province;

"original purchaser"

«*premier acheteur*»

"original purchaser" in relation to a share means the individual to whom the share was issued;

"registered labour-sponsored venture capital corporation"

«*corporation agréée à capital de risque de travailleurs*»

"registered labour-sponsored venture capital corporation" means a corporation registered under subsection 204.81(1);

"reserve"

«*réserve*»

"reserve" means property described in any of subparagraphs 204(e)(i), (ii), (iii), (vii) and (viii);

"revoked corporation"

*Version anglaise seulement*

"revoked corporation" means a corporation the registration of which has been revoked pursuant to subsection 204.81(6);

"specified active business"

«*entreprise déterminée exploitée activement*»

"specified active business", at any time means any active business carried on in Canada where at that time,

(a) at least 50% of the full-time employees employed in respect of the business are employed in Canada, and

(b) at least 50% of the salaries and wages paid to employees employed in respect of the business are reasonably attributable to services rendered in Canada by the employees.

#### Conditions for registration

204.81(1) The Minister may register a corporation for the purposes of this Part if, in the opinion of the Minister, it complies with the following conditions:

(a) the corporation has applied in prescribed form to the Minister for registration;

(b) the corporation was caused to be incorporated under the *Canada Business Corporations Act* by a national central labour body;

(c) the articles of incorporation of the corporation provide that

(i) the business of the corporation is restricted to assisting the development of eligible business entities and to creating, maintaining and protecting jobs by providing financial and managerial advice to such entities and by investing funds of the corporation in eligible investments and reserves,

(ii) the authorized capital of the corporation shall consist only of

(A) Class A shares that are issuable only to individuals (other than trusts), that entitle the holders thereof

(I) to receive notice of and, subject to the *Canada Business Corporations Act*, to attend and vote at all meetings of the shareholders of the corporation,

(II) to receive dividends at the discretion of the board of directors of the corporation, and

(III) to receive, on dissolution of the corporation, all the assets of the corporation that remain after payment of all amounts payable to the holders of all other classes of shares of the corporation,

and that, where an information return described in paragraph (6)(c) has been issued in respect thereof, are redeemable or transferable only in the circumstances described in subparagraph (v) or (vi), as the case may be,

(B) Class B shares that are issuable only to and may be held only by the national central labour body that caused the corporation to be incorporated and that entitle the national central labour body



(I) to receive notice of and, subject to the *Canada Business Corporations Act*, to attend and vote at all meetings of the shareholders of the corporation, and

(II) to receive, on dissolution of the corporation, an amount equal to the amount of the consideration received by the corporation on the issue of the Class B shares,

but that do not entitle the national central labour body to receive dividends, and

(C) such additional classes of shares without voting rights (except as may be required by law) as may be authorized, where the rights, privileges, restrictions and conditions attached to the shares are determined by the board of directors of the corporation and approved by the Minister of Finance,

(iii) the business and affairs of the corporation shall be managed by a board of directors at least one-half of whom are appointed by the national central labour body that caused the corporation to be incorporated,

(iv) the corporation shall not reduce its paid-up capital in respect of a class of shares (other than class B shares) otherwise than by way of a redemption of shares of the corporation or in such other manner as may be prescribed,

(v) the corporation may redeem a Class A share in respect of which an information return described in paragraph (6)(c) has been issued only if the corporation is requested in writing by the holder of the share to redeem it and

(A) where the share is held by the original purchaser,

(I) the request is made within 60 days of the day on which the share was issued to the original purchaser, the information return referred to in paragraph (6)(c) has been returned to the corporation and the share is not held as an investment of a registered retirement savings plan, or

(II) the corporation is notified in writing that the original purchaser has retired from the workforce, has attained 65 years of age, has ceased to be a resident of Canada, or has, after acquiring the share, become disabled and permanently unfit for work or become terminally ill,

(B) where the holder of the share is not the original purchaser, the time of redemption is on or after the day on which the original purchaser attained, or would, but for death, have attained the age of 65 years,

(C) the share is held by an individual who notifies the corporation in writing that the share has devolved on the individual as a consequence of the death of a shareholder of the corporation,

(D) the share is held as an investment of a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant and the original purchaser has died or, where the original purchaser is living, the corporation is notified in writing that the original purchaser

(I) has retired from the workforce or has attained 65 years of age,

(II) has, after acquiring the share, become disabled and permanently unfit for work or become terminally ill, or

(III) has ceased to be a resident of Canada,

(E) the share is held as an investment of a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is not an annuitant and the time of redemption is on or after the day on which the original purchaser attained, or would, but for death, have attained the age of 65 years,

(F) the redemption occurs more than eight years after the date on which the share was issued, or

(G) the holder of the share has satisfied such other conditions as may be prescribed,

(vi) the corporation shall not register a transfer by the original purchaser, or by a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant, of a Class A share in respect of which an information return has been issued pursuant to paragraph (6)(c) except where the transfer occurs more than five years after the date on which the share was issued, or where the corporation is notified in writing that the share is being transferred

(A) to be held as an investment of a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant,

(B) as a consequence of the death of the original purchaser,

(C) at a time when the original purchaser

(I) has retired from the workforce, or has attained 65 years of age,

(II) has, after acquiring the share, become disabled and permanently unfit for work or become terminally ill, or

(III) has ceased to be a resident of Canada, or

(D) in accordance with such other conditions as may be prescribed,

(vii) the corporation shall not pay any fee or remuneration to a shareholder, director or officer of the corporation unless the payment has been approved by a resolution of the directors of the corporation, and

(viii) the corporation shall not make any investment in an eligible business entity with which the corporation or any of the directors of the corporation does not deal at arm's length unless

(A) the corporation would deal at arm's length with the eligible business entity but for the corporation's interest as the holder of eligible investments in such entity, or

(B) the investment was approved by special resolution of the shareholders of the corporation before the investment was made.

#### Registration number

(2) Upon registering a corporation under subsection (1), the Minister shall assign to it a registration number.

#### Successive registrations

(3) Where a national central labour body has caused more than one corporation to be registered under this Part, for the purposes of paragraph (6)(h) and section 204.82, each of the corporations caused to be registered by the national central labour body shall be deemed

(a) to have issued a Class A share at the earliest time any such corporation issued a Class A share,

and, where the corporation did not exist at the time referred to in paragraph (a),

(b) to have been in existence during the particular period commencing immediately before that time and ending immediately after the corporation was incorporated, and

(c) to have had, throughout the particular period, fiscal periods ending on the same calendar day in each year in the particular period as the calendar day on which its first fiscal period after it was incorporated ended.

#### Determination of cost

(4) For the purposes of this Part, the cost at any time to a corporation of an eligible investment that is a guarantee shall be deemed to be 25% of the amount of the debt obligation subject to the guarantee at that time.



#### Registration date

(5) Where the Minister has registered a corporation for the purposes of this Part, the corporation shall be deemed to have become so registered on the later of

- (a) the day the application for registration of the plan was received by the Minister; and
- (b) where in the application for registration a day is specified as the day upon which the registration is to take effect, that day.

#### Revocation of registration

(6) The Minister may revoke the registration of a corporation for the purposes of this Part where

- (a) the corporation has failed to comply with any of the provisions of its articles of incorporation described in paragraph (1)(c);
- (b) the corporation has failed to file with the Minister an information return in prescribed form containing prescribed information on or before March 15 of the calendar year following each calendar year in which, or within the 60 days after the end of which, an individual has acquired or irrevocably subscribed and paid for a class A share of the capital stock of the corporation;
- (c) an individual has acquired or irrevocably subscribed and paid for a Class A share of the capital stock of the corporation in a calendar year or within 60 days after the calendar year and the corporation has failed to issue on or before March 15 of the following calendar year to the individual an information return in prescribed form stating the amount of the consideration paid for the share by the individual in the year or within 60 days after the year;
- (d) the corporation has issued more than one information return described in paragraph (c) in respect of the same acquisition of or subscription for a class A share;
- (e) the financial statements of the corporation presented to its shareholders have not been prepared in accordance with generally accepted accounting principles;
- (f) the corporation has failed within 6 months after the end of any taxation year to have an independent valuation of its shares made as of the end of that year;

(g) at any time in any of the first 5 taxation years of the corporation commencing with the taxation year in which the corporation first issues a Class A share, the corporation does not have eligible investments or reserves the cost to the corporation of which equals or is greater than 80% of the amount by which the total consideration received by it for Class A shares issued by it before that time exceeds the total of all amounts paid by it before that time to its shareholders as a return of capital on such shares;

(h) the corporation has not paid the tax or penalty payable under section 204.82 by it on or before the day on or before which such tax or penalty was required to be paid;

(i) tax has been payable under subsection 204.82(3) by the corporation for 3 or more taxation years;

(j) the corporation has provided a guarantee that is an eligible investment and has failed to maintain at any time during the term of the guarantee, a reserve equal to the cost to the corporation of the guarantee at that time;

(k) the corporation has paid a fee or commission in excess of a reasonable amount in respect of the offering for sale, or the sale, of its shares; or

(l) the corporation has had a monthly deficiency in 18 or more months in any 36 month period.

#### Notice of intent to revoke registration

(7) Where the Minister proposes to revoke the registration of a corporation under subsection (6) the Minister shall, by registered mail, give notice to the corporation that the Minister proposes to revoke its registration.

#### Idem

(8) Where the Minister gives notice under subsection (7) to a registered labour-sponsored venture capital corporation, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the date of mailing as the Federal Court of Appeal or a judge thereof, on application made at any time before the determination of any appeal pursuant to subsection (9) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette* and on such publication of a copy of the notice the registration of the corporation is revoked.

## Right of appeal

(9) Where the Minister refuses to accept a corporation for registration under subsection (1) or gives notice of intent to revoke the registration of a corporation under subsection (7), the corporation may appeal from such decision or from the giving of such notice to the Federal Court of Appeal.

## Recovery of credit

204.82(1) Where, at any time in a taxation year referred to in paragraph 204.81(6)(g) of a corporation that was registered under this Part,

(a) 80% of the amount, if any, by which the total consideration received by it for Class A shares issued by it before that time exceeds the total of all amounts paid by it before that time to its shareholders as a return of capital on such shares

exceeds

(b) the total of all amounts, each of which is the cost to the corporation of an eligible investment or reserve of the corporation at that time,

the corporation shall pay a tax under this Part for the year equal to the amount determined by the formula

$$(A \times 20\%) - B$$

where

A is the greatest amount by which the amount determined under paragraph (a) exceeds the amount determined under paragraph (b) for the year, and

B is the total of all taxes payable under this subsection by the corporation for preceding taxation years.

## Liability for tax

(2) Where, at any time in a month in a particular taxation year of a corporation that was registered under this Part commencing after the end of the corporation's last taxation year referred to in paragraph 204.81(6)(g), 60% of the lesser of

(a) the amount of the shareholders' equity in the corporation determined at the end of the taxation year immediately preceding

the particular taxation year, without taking into account any unrealized gains or losses in respect of eligible investments of the corporation, and

(b) the amount of the shareholders' equity in the corporation, determined at the end of the particular taxation year, without taking into account any unrealized gains or losses in respect of eligible investments of the corporation

exceeds

(c) the total of all amounts, each of which is the cost to the corporation of an eligible investment of the corporation at that time,

the corporation shall, in respect of that month, pay a tax under this Part equal to the amount obtained when the greatest such excess in the month (in this section and sections 204.81 and 204.83 referred to as the monthly deficiency) is multiplied by a percentage equal to 1/60th of the prescribed rate of interest in effect for the month.

Recovery of credit

(3) Where a corporation is liable under subsection (2) to pay a tax in respect of 12 consecutive months (in this subsection referred to as the "particular period"), the corporation shall pay a tax under this Part for a taxation year in respect of each particular period that ends in the year equal to the total of amounts determined by the formula:

$$\frac{(A \times 20\%)}{12} - (B - C)$$

where

- A is the total of the monthly deficiencies for each month in the particular period;
- B is the total of all taxes payable by the corporation under subsection (1) for preceding taxation years, or under this subsection in respect of a period ending before the end of the particular period; and
- C is the total of all amounts refunded under section 204.83 in respect of the tax paid by reason of this subsection by the corporation for preceding taxation years.

Penalty



(4) Where a corporation is liable under subsection (3) to pay a tax for a taxation year, the corporation shall pay, in addition to the tax payable under that subsection, a penalty for the year equal to that tax.

#### Refund of tax and penalty

204.83 Where a corporation is, by reason of subsections 204.82(3) and (4), required to pay a tax and a penalty under this Part for a taxation year and, throughout any period of 12 consecutive months (in this section referred to as the "second period") commencing after the 12 month period in respect of which the tax became payable (in this section referred to as the "first period") the corporation had no monthly deficiency and has filed with the Minister the return required under this Part for the taxation year in which the second period ended, the Minister shall refund to the corporation an amount equal to the total of the amount that was paid by reason of subsection (3) and 80% of the amount that was paid by reason of subsection (4) in respect of the first period.

#### Penalty

204.84 Every corporation that for a taxation year issues an information return described in paragraph 204.81(6)(c) in respect of

- (a) the issuance of a share at a time when the corporation was a revoked corporation, or
- (b) a subscription in respect of a share if the share is not issued on or before the day that is 180 days after the day on which the information return was issued,

is liable to a penalty for the year equal to the amount of the consideration for which the share was or was to be issued.

#### Prohibition against dissolution

204.85 A registered labour-sponsored venture capital corporation or a revoked corporation shall not, if it has issued any Class A shares, liquidate or dissolve except with the written permission of the Minister of Finance and upon such terms and conditions as are specified by that Minister.

#### Return and payment of tax

204.86 Every registered labour-sponsored venture capital corporation and every revoked corporation shall,

- (a) on or before the day on or before which it is required by section 150 to file its return of income under Part I for a taxation

year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax and penalties, if any, payable under this Part by it for the year; and

(c) within 90 days after the end of each taxation year pay to the Receiver General the amount of tax and penalties, if any, payable under this Part by it for the year.

#### Provisions applicable to Part

204.87 Subsection 150(3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 164 and 165 to 167, Division J of Part I and section 227.1 are applicable to this Part with such modifications as the circumstances require."

(2) Subsection (1) is applicable after 1988.

157. (1) The said Act is further amended by adding thereto, immediately after section 204.87 thereof, the following Part:

#### "PART X.4

#### TAX IN RESPECT OF OVER-PAYMENTS TO REGISTERED EDUCATION SAVINGS PLANS

##### Definitions

204.9(1) In this Part,

"excess amount"

«*excédent*»

"excess amount" for a year at any time in respect of a beneficiary means the amount, if any, by which the total of all payments made after February 20, 1990 in the year and before that time to all registered education savings plans by or on behalf of all subscribers in respect of the beneficiary exceeds the lesser of

(a) \$1,500, and

(b) the amount, if any, by which \$31,500 exceeds the total of all such payments for all preceding years;

"subscriber's share of the excess amount"  
*«part du souscripteur sur l'excédent»*

"subscriber's share of the excess amount" for a year at any time in respect of a beneficiary means the amount determined by the formula

$$\frac{A}{B} \times C$$

where

- A is the total of all payments made in the year and before that time into all registered education savings plans by or on behalf of the subscriber in respect of the beneficiary,
- B is the total of all payments made in the year and before that time into all registered education savings plans by or on behalf of all subscribers in respect of the beneficiary, and
- C is the excess amount for the year at that time in respect of the beneficiary.

Agreements before February 21, 1990

(2) Notwithstanding subsection (1), in determining the excess amount for a year in respect of a beneficiary, where, pursuant to an agreement in writing entered into before February 21, 1990, a subscriber is required to make payments of specified amounts on a periodic basis into a registered education savings plan in respect of the beneficiary, and the subscriber has made at least one payment under the agreement before that date, the following rules apply:

- (a) if the total of all such payments made under all such agreements by all such subscribers in respect of the beneficiary exceeds \$1,500 in a year, such total shall be deemed to be \$1,500; and
- (b) the amount determined under paragraph (b) of the definition "excess amount" in subsection (1) for a year shall be deemed to be not less than the total of payments made under all such agreements in the year.

Refunds from unregistered plans

(3) For the purposes of subsection (1), where an individual has entered into an education savings plan before February 21, 1990, pursuant to a preliminary prospectus issued by a promoter, and the promoter

refunds all payments made into the plan and all income accrued thereon to the individual, each payment made by the individual into a registered education savings plan before December 31, 1990 shall be deemed to be a payment made before February 21, 1990 to the extent that the total of all such payments does not exceed the amount so refunded to the individual.

#### Tax payable by subscribers

204.91 Each subscriber under a registered education savings plan shall, in respect of each month, pay a tax under this Part equal to 1% of the subscriber's share of each excess amount for a year at the end of that month in respect of a beneficiary under the plan to the extent that the amount of such share has not been withdrawn from the plan before the end of that month.

#### Return and payment of tax

204.92 Every person liable to pay tax under this Part in respect of a month in a year shall, within 90 days after the end of the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable under this Part by the person in respect of each month in the year; and

(c) pay to the Receiver General the amount of tax, if any, payable by the person under this Part in respect of each month in the year.

#### Provisions applicable to Part

204.93 Subsections 150(2) and (3), sections 152, 158 and 159, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require."

(2) Subsection (1) is applicable to months ending after January 1990.

158. (1) Paragraph (g) of the definition "foreign property" in subsection 206(1) of the said Act is amended by adding thereto, immediately after subparagraph (i) thereof, the following subparagraph:

"(i.1) the International Finance Corporation,"



(2) Paragraph 206(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) 20% of the total of all amounts each of which is the cost amount of a property to the taxpayer, and"

(3) Subparagraph 206(2)(c)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) 20% of the total of all amounts each of which is the cost amount of a property to the taxpayer,"

(4) Subsection (1) is applicable after Announcement Date.

(5) Subsection (2) is applicable to months ending after 1989, except that for months in 1990, 1991, 1992 and 1993, the reference in paragraph 206(2)(b) of the said Act, as enacted by subsection (2), to "20%" shall be read as "12%", "14%", "16%" and "18%", respectively.

(6) Subsection (3) is applicable to months ending after 1989.

159. (1) Section 206.1 of the said Act is repealed and the following substituted therefor:

#### Tax in respect of acquisition of shares

"206.1 Where at any time a taxpayer to which this Part applies has entered into an agreement (otherwise than pursuant to the acquisition or writing by it of an option listed on a prescribed stock exchange) to acquire a share of the capital stock of a corporation (otherwise than from the corporation) at a price that may differ from the fair market value thereof at the time the share may be acquired, the taxpayer shall, in respect of each month during which the taxpayer is a party to the agreement, pay a tax under this Part equal to 1% of the fair market value of the share at the time that the agreement is entered into."

(2) Subsection (1) is applicable with respect to agreements entered into after Announcement Date.

160. (1) Section 207.3 of the said Act is repealed and the following substituted therefor:

#### Tax payable by institution or public authority

"207.3 Any institution or public authority that, at any time in a year, disposes of an object within 5 years after the object became an object described in subparagraph 39(1)(a)(i.1) shall, in respect of that year, pay a tax under this Part equal to 30% of the fair market value of the

object at the time the object was so disposed of, unless the disposition was made to another institution or public authority that was, at the time of the disposition, designated under subsection 32(2) of the *Cultural Property Export and Import Act* either generally or for a specified purpose related to that object."

(2) Subsection (1) is applicable with respect to dispositions made after December 11, 1988.

161. (1) Subparagraph 208(1)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) the aggregate of all amounts each of which is an amount (other than an amount to which paragraph 18(1)(l.1) or (m) applies) that was paid, payable, distributed or distributable by the person in the year in any manner whatever to

(A) another person (other than a person whose taxable income is exempt from tax under Part I),  
or

(B) another person whose taxable income is exempt from tax under Part I, where the amount was paid, payable, distributed or distributable as part of a transaction or event or series of transactions or events to which any person whose taxable income is not exempt from tax under Part I was a party

in respect of any production from the property of petroleum, natural gas or other related hydrocarbons or of metals or minerals to any stage that is not beyond the specified stage or in respect of any revenue or income that may reasonably be regarded as attributable to such production"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

162. (1) Paragraph (c) of the definition "carved-out property" in subsection 209(1) of the said Act is repealed and the following substituted therefor:

"(c) an interest in respect of a property that was acquired by the person solely in consideration of the person's undertaking under an agreement to incur Canadian exploration expense or Canadian development expense in respect of the property and, where the

agreement so provides, to acquire gas or oil well equipment (as defined in subsection 1104(2) of the *Income Tax Regulations*) in respect of the property,

(c.1) an interest in respect of a property that was acquired by the person on the conversion of a particular Canadian resource property, where the particular property was

(i) by reason of paragraph (c), not a carved-out property of the person, and

(ii) converted under the terms of the agreement referred to in paragraph (c) in respect of the particular property referred to in paragraph (c),"

(2) The definition "carved-out property" in subsection 209(1) of the said Act is further amended by striking out the word "or" at the end of paragraph (f) thereof and by adding thereto, immediately after paragraph (f) thereof, the following paragraph:

"(f.1) where the taxable income of the person is exempt from tax under Part I, a property of the person that

(i) does not relate to property of a person whose taxable income is not exempt from tax under Part I, and

(ii) is not, and does not relate to, property that has at any time been a carved-out property of any other person, or"

(3) Subsection (1) is applicable with respect to property acquired after July 19, 1985.

(4) Subsection (2) is applicable with respect to property acquired after 1987.

163. (1) Section 211 of the said Act is amended by adding thereto, in alphabetical order in the section, the following definition:

"benefits payable under a life insurance policy"

«*prestation payable dans le cadre d'une police d'assurance-vie*»

"benefits payable under a life insurance policy" includes

(a) a policy dividend, an experience rating refund and a refund of premiums under the policy,

(b) any amount payable under a reinsurance arrangement in respect of the policy, and

(c) any amount deemed by paragraph 138.1(1)(g) to be a payment under the terms and conditions of the policy,

but does not include a policy loan or interest on funds left on deposit with the insurer under the terms of the policy;"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

164. (1) The description of C in subsection 211.1(3) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof and by repealing paragraph (d) thereof and substituting the following therefor:

"(d) the maximum amounts deductible in computing such income under subparagraphs 138(3)(a)(i), (ii) and (iv) were deducted in such determination,

(e) for the purposes of paragraph 138(4)(a), the maximum amounts deductible under subparagraphs 138(3)(a)(i), (ii) and (iv) were deducted in computing the insurer's income or loss, as the case may be, for the immediately preceding taxation year, and

(f) in respect of the insurer's first taxation year commencing after June 17, 1987 and ending after 1987,

(i) the amounts referred to in paragraph (e) in respect of the insurer's immediately preceding taxation year were the maximum amounts that would be deductible under subparagraphs 138(3)(a)(i), (ii) and (iv) for that year if those subparagraphs were applicable in respect of that year, and

(ii) the prescribed amount of the insurer's 1968 reserve adjustment were nil;"

(2) The description of G in subsection 211.1(3) of the said Act is repealed and the following substituted therefor:

"G is the total of all amounts each of which is the prescribed portion of an amount that would be included in computing the income or taxable income earned in Canada of a policyholder under section 12.2, paragraph 56(1)(j) or subparagraph 115(1)(a)(vi) for a taxation year ending in the year, if all taxation years were calendar years, in respect of life insurance policies in Canada (other than annuity contracts and prescribed arrangements) of the insurer."



(3) Subsections (1) and (2) are applicable to taxation years commencing after June 17, 1987 that end after 1987.

165. (1) Sections 211.5 and 211.6 of the said Act are repealed and the following substituted therefor:

Provisions applicable to Part

"211.5 Section 152, subsection 157(2.1), sections 158 and 159, subsections 161(1), (2), (2.1), (2.2) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

166. (1) Clause 212(1)(b)(vii)(C) of the said Act is repealed and the following substituted therefor:

"(C) in the event of a failure or default under the said terms or agreement, "

(2) Paragraph 212(1)(c) of the said Act is repealed and the following substituted therefor:

Estate or trust income

"(c) income of or from an estate or trust to the extent that such amount

(i) would, if the non-resident person were a person resident in Canada to whom Part I was applicable, be included in computing the income of the non-resident person by reason of subsection 104(13), except to the extent that such amount is deemed by subsection 104(21) to be a taxable capital gain of the non-resident person, or

(ii) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the estate or trust arrangement) to be a distribution of, or derived from, an amount received by the estate or trust as, on account of, in lieu of payment of or in satisfaction of, a dividend on a share of the capital stock of a corporation resident in Canada other than a taxable dividend;"

(3) Subsection 212(11) of the said Act is repealed and the following substituted therefor:

Payment to beneficiary as income of trust

"(11) An amount paid or credited by a trust or an estate to a beneficiary or other person beneficially interested therein shall be deemed, for the purpose of paragraph (1)(c) and without limiting the generality thereof, to have been paid or credited as income of the trust or estate, regardless of the source from which the trust or estate derived it."

(4) Subsection (1) is applicable with respect to amounts paid or credited after 1986.

(5) Subsection (2) is applicable with respect to amounts paid or credited or deemed under the said Act to have been paid or credited by an estate or trust after Announcement Date.

(6) Subsection (3) is applicable with respect to amounts paid or credited after Announcement Date.

167. (1) Subparagraphs 212.1(3)(b)(i) to (iii) of the said Act are repealed and the following substituted therefor:

"(i) the taxpayer's child (within the meaning assigned by paragraph 70(10)(a)), who is under 18 years of age, or the taxpayer's spouse,

(ii) a trust of which the taxpayer, a person described in subparagraph (i) or a corporation described in subparagraph (iii) is a beneficiary, or

(iii) a corporation controlled by the taxpayer, a person described in subparagraph (i), a trust described in subparagraph (ii) or any combination thereof"

(2) Subsection 212.1(3) of the said Act is further amended by striking out the word "and" at the end of paragraph (a) thereof, by adding the word "and" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) a trust and a beneficiary of the trust or a person related to a beneficiary of the trust shall be deemed not to deal with each other at arm's length."

(3) Subsections (1) and (2) are applicable with respect to dispositions occurring after Announcement Date.

168. (1) Subsection 214(3) of the said Act is amended by striking out the word "and" at the end of paragraph (i) thereof, by adding the word "and" at the end of paragraph (j) thereof and by adding thereto the following paragraph:

"(k) where subsection 18(9.1) would, if Part I were applicable, deem an amount paid to a taxpayer to be received by the taxpayer as interest, that amount shall be deemed to have been paid to the taxpayer as interest."

(2) Paragraph 214(6)(b) of the said Act is repealed and the following substituted therefor:

"(b) the obligation was not an obligation described in paragraph (8)(a) or (b); and"

(3) Subsection 214(8) of the said Act is repealed and the following substituted therefor:

Meaning of "excluded obligation"

"(8) For the purposes of subsection (7), "excluded obligation" means any bond, debenture, bill, note, mortgage, hypothec or similar obligation

(a) the interest on which would be exempt from tax under this Part by reason of subparagraph 212(1)(b)(ii), (iii) or (vii);

(b) that is prescribed to be a public issue security; or

(c) that was issued for an amount not less than 97% of the principal amount thereof, and the yield from which, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right) does not exceed 4/3 of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, and

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case."

(4) Subsection (1) is applicable with respect to payments made after Announcement Date.

(5) Subsection (2) and (3) are applicable with respect to obligations assigned or otherwise transferred after Announcement Date.

169. (1) Subsection 215(5) of the said Act is repealed and the following substituted therefor:

Regulations reducing deduction or withholding

"(5) The Governor in Council may make regulations with respect to any non-resident person or class of non-resident persons to whom any amount is paid or credited as, on account of, in lieu of payment of or in satisfaction of, any amount described in any of paragraphs 212(1)(f), (h), (j) to (m) and (q) reducing the amount otherwise required by any of subsections (1) to (3) to be deducted or withheld from the amount so paid or credited."

(2) Subsection (1) is applicable with respect to amounts paid or credited after Announcement Date.

170. (1) All that portion of subsection 216(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Alternatives re rents and timber royalties

"216.(1) Where an amount has been paid during a taxation year to a non-resident or to a partnership of which that person was a member as, on account of, in lieu of payment of or in satisfaction of, rent on real property in Canada or a timber royalty, that person may, within 2 years (or, where that person has filed an undertaking described in subsection (4) in respect of the year, within 6 months) after the end of the year, file a return of income under Part I in the form prescribed for a person resident in Canada for that year and the non-resident person shall, without affecting the liability of the non-resident person for tax otherwise payable under Part I, thereupon be liable, in lieu of paying tax under this Part on that amount, to pay tax under Part I for the year as though"

(2) Subsection (1) is applicable to taxation years ending after Announcement Date.

171. (1) Paragraph 217(c) of the said Act is repealed and the following substituted therefor:

"(c) notwithstanding sections 118.91 and 118.94, where the non-resident person is an individual more than one-half of whose



income for the year is included in the individual's taxable income or taxable income earned in Canada for the year, as the case may be, section 118.94 shall, where the individual so elects in the return, be applied in respect of the individual for the year as if it read as follows:

"118.94 Sections 118 to 118.91 do not apply for the purpose of computing the tax payable under this Part for a taxation year by an individual who was non-resident at any time in the year, except that for the purpose of computing the tax payable under this Part for the year there may be deducted the total of

(a) such of the amounts that would have been deductible under any of section 118.2, subsections 118.3(2) and (3) and sections 118.6, 118.8 and 118.9 for the purpose of computing the individual's tax payable under this Part for the year if the individual had been resident in Canada throughout the year, as may reasonably be considered wholly applicable, and

(b) the amounts that would have been deductible under sections 118 and 118.1, subsection 118.3(1) and sections 118.5 and 118.7 for the purpose of computing the individual's tax payable under this Part for the year if the individual had been resident in Canada throughout the year,

not exceeding the appropriate percentage for the year of the aggregate of all amounts each of which is an amount paid or credited to the individual in the year on which the individual would, by reason of any of paragraphs 212(1)(f), (h), (j) to (m) and (q), be liable to pay tax under Part XIII if paragraph 212(1)(h) were read without reference to subparagraphs (i) and (ii) thereof, and no election were made under section 217."

(2) Subsection (1) is applicable to the 1991 and subsequent taxation years.

(3) For the 1988 to 1990 taxation years, paragraphs 118.94(a) and (b) of the said Act, as those paragraphs apply for the purposes of paragraph 217(c) of the said Act, shall be read as follows:

"(a) such of the amounts that would have been deductible under any of section 118.2, subsections 118.3(2) and (3) and sections 118.6, 118.8 and 118.9 for the purpose of computing the individual's tax payable under this Part for the year if the

individual had been resident in Canada throughout the year, as may reasonably be considered to be wholly applicable; and

(b) the amounts that would have been deductible under sections 118 and 118.1, subsection 118.3(1) and sections 118.5 and 118.7 for the purpose of computing the individual's tax payable under this Part for the year if the individual had been resident in Canada throughout the year."

172. (1) Subsection 219(1) of the said Act is amended by adding thereto, immediately following paragraph (f) thereof, the following paragraph:

"(f.1) the total of all amounts each of which is the amount of interest or a penalty paid by it in the year

(i) under this Act, or

(ii) on or in respect of income taxes payable by it to the government of a province under a law of the province relating to income tax

to the extent that such interest or penalty was not deductible in computing its income under Part I for any taxation year from a business carried on by it in Canada,"

(2) Subsection (1) is applicable with respect to interest and penalties paid in the 1988 and subsequent taxation years.

173. (1) Paragraph 220(4.3)(a) of the said Act is repealed and the following substituted therefor:

"(a) the tax payable under this Act by the taxpayer for a taxation year to the extent that the amount of that tax exceeds the amount that that tax would be if no amount that the taxpayer is obliged to repay to the corporation were included under paragraph 137.1(10)(a) or (b) in computing the taxpayer's income for the year or a preceding taxation year, and"

(2) Subsection (1) is applicable after Announcement Date.

174. (1) Section 221 of the said Act is amended by adding thereto the following subsection:

Regulations binding Crown

"(3) Regulations made under paragraphs (1)(d) or (e) are binding on Her Majesty in right of Canada or a province."

(2) Subsection (1) is applicable after Announcement Date.

175. (1) The said Act is further amended by adding thereto, immediately after section 221 thereof, the following section:

Application of interest

"221.1 For greater certainty, where an amendment to this Act or an amendment or enactment that relates to this Act is applicable to or with respect to any transaction, event or time, or any taxation year, fiscal period or other period of time or part thereof (in this section referred to as the "application time") occurring, or that is, before the day on which the amendment or enactment is assented to or promulgated, for the purposes of the provisions of this Act that provide for payment of, or liability to, any interest, the amendment or enactment shall, unless a contrary intention is evident, be deemed to have come into force at the commencement of the last taxation year commencing before the application time."

(2) Subsection (1) is applicable with respect to amendments and enactments assented to or promulgated after 1989 and shall be deemed to have come into force on January 1, 1990.

176. Section 226 of the said Act is repealed and the following substituted therefor:

Taxpayer leaving Canada

"226.(1) Where the Minister suspects that a taxpayer has left or is about to leave Canada, the Minister may before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer's latest known address, demand payment of the amount of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived, and that amount shall be paid forthwith by the taxpayer notwithstanding any other provision of this Act.

Idem

(2) Where a taxpayer has failed to pay, as required, any tax, interest or penalties demanded under this section, the Minister may direct that the goods and chattels of the taxpayer be seized and subsections 225(2) to (5) are, with respect to the seizure, applicable with such modifications as the circumstances require."

177. (1) All that portion of subsection 227(8.3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:



Interest on amounts not deducted or withheld

"(8.3) A person who has failed to deduct or withhold any amount as required by subsection 135(3) or 153(1) or section 215 shall pay to the Receiver General interest on the amount at the prescribed rate computed,"

(2) Paragraph 227(8.3)(b) of the said Act is repealed and the following substituted therefor:

"(b) in the case of an amount required by subsection 135(3) or section 215 to be deducted or withheld, from the day on which the amount was required to be deducted or withheld to the day of payment of the amount to the Receiver General."

(3) Subsection 227(8.4) of the said Act is repealed and the following substituted therefor:

Liability to pay amount not deducted or withheld

"(8.4) A person who has failed to deduct or withhold any amount as required under

(a) subsection 135(3) in respect of a payment made to another person, or

(b) subsection 153(1) in respect of an amount paid to another person who is non-resident or who is resident in Canada by reason only of paragraph 250(1)(a)

is liable to pay as tax under this Act on behalf of the other person the whole of the amount that should have been so deducted or withheld and is entitled to deduct or withhold from any amount paid or credited by the person to the other person or otherwise to recover from the other person any amount paid by the person as tax under this Part on behalf of the other person."

(4) Subsection 227(14) of the said Act is repealed and the following substituted therefor:

Application of other Parts

"(14) Parts IV, IV.1, VI and VI.1 are not applicable to any corporation for any period throughout which it is exempt from tax under section 149."

(5) Subsections (1) to (3) are applicable after Announcement Date.



(6) Subsection (4) is applicable with respect to any period or part of a period referred to in subsection 227(14) of the said Act, as enacted by subsection (1), that is after 1989.

178. (1) Subparagraph (a)(ii) of the definition "tax shelter" in subsection 237.1(1) of the English version of the said Act is repealed and the following substituted therefor:

"(ii) any other amount represented to be deductible in computing income or taxable income in respect of the interest in the property and expected to be incurred by or allocated to the person for the particular year or any preceding taxation year, other than any amount included in computing a loss described in subparagraph (i),"

(2) Subsection 237.1(6) of the said Act is repealed and the following substituted therefor:

Deduction disallowed

"(6) In computing the amount of income, taxable income or taxable income earned in Canada of, or tax or other amount payable by, or refundable to, a taxpayer under this Act for a taxation year or any other amount that is relevant for the purposes of computing that amount, no amount may be deducted in respect of an interest in a tax shelter unless the taxpayer files with the Minister a prescribed form containing prescribed information, including the identification number for the shelter."

(3) Subsection (1) is applicable with respect to interests acquired after August 31, 1989.

(4) Subsection (2) is applicable with respect to interests acquired after Announcement Date.

179. Subsection 239(2.3) of the said Act is repealed and the following substituted therefor:

Offence with respect to Social Insurance No.

"(2.3) Every person required under this Act or a regulation to make an information return requiring an individual's Social Insurance Number, and every officer, employee and agent of such a person, who knowingly uses, communicates or allows to be communicated (otherwise than as required under this Act, as authorized under subsection 241(4) or in the course of duties in connection with the administration or enforcement of this Act) the Social Insurance Number without the individual's written consent is guilty of an offence and liable on summary

conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment."

180. (1) Paragraph 241(4)(g) of the said Act is repealed and the following substituted therefor:

"(g) communicate or allow to be communicated information obtained under this Act or the *Petroleum and Gas Revenue Tax Act* as to the name, address, occupation or size or type of business of a taxpayer to an official of a department or agency of the Government of Canada or of a province, solely for the purpose of enabling that department or agency to obtain statistical data for research and analysis;"

(2) Subsection 241(4) of the said Act is further amended by striking out the word "or" at the end of paragraph (i) thereof, by adding the word "or" at the end of paragraph (j) thereof and by adding thereto the following paragraph:

"(k) communicate or allow to be communicated information obtained under this Act to an official of the Department of Communications or a member of the Canadian Cultural Property Export Review Board, solely for the purposes of administering the provisions of sections 32 and 33 of the *Cultural Property Export and Import Act*."

181. (1) Subsection 244(14) of the said Act is repealed and the following substituted therefor:

Mailing date

"(14) For the purposes of this Act, the day of mailing of any notice or notification described in subsection 149.1(6.3), 152(4) or 166.1(5) or of any notice of assessment shall be presumed to be the date of such notice or notification."

(2) Subsection 244(16) of the said Act is repealed and the following substituted therefor:

Forms specified or authorized

"(16) Every form purporting to be a form prescribed or authorized by the Minister shall be deemed to be a form authorized by the Minister under this Act unless called in question by the Minister or by some person acting for the Minister or Her Majesty."

(3) Section 244 of the said Act is further amended by adding thereto the following subsection:

## Members of partnerships

"(20) For the purposes of this Act, a reference in any notice or other document to the firm name of a partnership shall be read as a reference to all the members thereof and any notice or other document, mailed to, served on, or otherwise sent to a partnership at the last known address or place of business of the partnership or any member thereof, shall be deemed to have been provided to each member of the partnership."

182. (1) The definitions "automobile", "dividend", "inventory" and "share" in subsection 248(1) of the said Act are repealed and the following substituted therefor:

"automobile"

«*automobile*»

"automobile" means

(a) a motor vehicle that has a seating capacity for not more than the driver and 8 passengers,

but does not include

(b) an ambulance,

(c) a motor vehicle acquired primarily for use as a taxi, a bus used in a business of transporting passengers or a hearse used in the course of a business of arranging or managing funerals,

(d) except for the purposes of section 6, a motor vehicle acquired to be sold, rented or leased in the course of carrying on a business of selling, renting or leasing motor vehicles or a motor vehicle used for the purpose of transporting passengers in the course of carrying on a business of arranging or managing funerals,

(e) a motor vehicle of a type commonly called a van or pick-up truck or a similar vehicle

(i) that has a seating capacity for not more than the driver and 2 passengers and that, in the taxation year in which it is acquired, is used primarily for the transportation of goods or equipment in the course of gaining or producing income, or

(ii) that, in the taxation year in which it is acquired, is used all or substantially all for the transportation of



goods, equipment or passengers in the course of gaining or producing income;

"dividend"  
«dividende»

"dividend" includes a stock dividend (other than a stock dividend paid after May 23, 1985 to a corporation by a non-resident corporation);

"inventory"  
«inventaire»

"inventory" means a description of property the cost or value of which is relevant in computing a taxpayer's income from a business for a taxation year or would have been so relevant if the income from the business had not been computed in accordance with the cash method and, with respect to a farming business, includes all of the livestock held in the course of carrying on the business;

"share"  
«action»

"share" means a share or fraction thereof of the capital stock of a corporation and, for greater certainty, a share of the capital stock of a corporation includes a share of the capital of a cooperative corporation (within the meaning assigned by subsection 136(2)) and a share of the capital of a credit union;"

(2) Paragraph (a) of the definition "cost amount" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(a) where the property was depreciable property of the taxpayer of a prescribed class, the amount that would be that proportion of the undepreciated capital cost to the taxpayer of property of that class at that time that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that had not been disposed of by the taxpayer before that time if subsection 13(7) were read without reference to

(i) the words "the lesser of" in paragraph (b) and clause (d)(i)(A) thereof, and

(ii) subparagraph (b)(ii), subclause (d)(i)(A)(II), clause (d)(i)(B) and paragraph (e) thereof,"

(3) Paragraph (d) of the definition "cost amount" in subsections 248(1) of the said Act is repealed and the following substituted therefor:



"(d) where the property was eligible capital property of the taxpayer in respect of a business, the amount that would, but for subsection 14(3), be that proportion of the cumulative eligible capital of the taxpayer in respect of the business at that time that

(i) the fair market value at that time of the property

is of

(ii) the fair market value at that time of all of the eligible capital property of the taxpayer in respect of the business,"

(4) All that portion of the definition "former business property" in subsection 248(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"former business property"  
«ancien bien d'entreprise»

"former business property" of a taxpayer means a capital property of the taxpayer that was used by the taxpayer or a person related to the taxpayer primarily for the purpose of gaining or producing income from a business, and that was real property or an interest therein of the taxpayer, but does not include,"

(5) All that portion of the definition "former business property" in subsection 248(1) of the said Act following paragraph (d) thereof is repealed and the following substituted therefor:

"and, for the purposes of this definition, "rental property" of a taxpayer means real property owned by the taxpayer, whether jointly with another person or otherwise, and used by the taxpayer in the taxation year in respect of which the expression is being applied principally for the purpose of gaining or producing gross revenue that is rent (other than property leased by the taxpayer to a person related to the taxpayer and used by that related person principally for any other purpose) but, for greater certainty, does not include a property leased by the taxpayer or the related person to a lessee, in the ordinary course of a business of the taxpayer or the related person of selling goods or rendering services, under an agreement by which the lessee undertakes to use the property to carry on the business of selling or promoting the sale of the goods or services of the taxpayer or the related person;"

(6) Subparagraph (c)(ii) of the definition "grandfathered share" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(ii) a debt obligation of a corporation that was

(A) issued before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, or

(B) issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 pursuant to an agreement in writing entered into before that time, or after that time and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the debt obligation is distributed"

(7) Paragraph (d) of the definition "grandfathered share" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(d) a share of a class of the capital stock of a Canadian corporation listed on a prescribed stock exchange that is issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 upon the exercise of a right

(i) that was issued before that time, that was issued after that time pursuant to an agreement in writing entered into before that time or that was issued after that time and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the rights were distributed, and

(ii) that was listed on a prescribed stock exchange

where all or substantially all the terms and conditions of the right and the share were established in writing before that time,"

(8) Paragraph (b) of the definition "home relocation loan" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(b) the loan is used to acquire a dwelling, or a share of the capital stock of a co-operative housing corporation acquired for

the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the habitation of the individual that is the individual's new residence,"

(9) Paragraph (a) of the definition "prescribed" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(a) in the case of a form, the information to be given on a form or the manner of filing a form, authorized by the Minister,

(a.1) in the case of the manner of making or filing an election, authorized by the Minister, and"

(10) Paragraphs (a) and (b) of the definition "small business corporation" in subsection 248(1) of the said Act are repealed and the following substituted therefor:

"(a) used principally in an active business carried on primarily in Canada by the particular corporation or by a corporation related to it,

(b) shares of the capital stock or indebtedness of one or more small business corporations that were at that time connected with the particular corporation (within the meaning of subsection 186(4) on the assumption that such small business corporation was at that time a "payer corporation" within the meaning of that subsection), or"

(11) The definition "taxable Canadian property" in subsection 248(1) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) a life insurance policy in Canada;"

(12) The definition "term preferred share" in subsection 248(1) of the said Act is amended by adding the word "or" at the end of paragraph (a) thereof.

(13) Subsection 248(1) of the said Act is further amended by adding thereto, in alphabetical order within that subsection, the following definitions:



"balance due day"

«date d'exigibilité du solde»

"balance due day" of an individual for a taxation year means

(a) where the individual is a trust, the day that is 90 days after the end of the year,

(b) where the individual died after October 31 in the year and before May 1 in the immediately following taxation year, the day that is 6 months after the day of death, and

(c) in any other case, April 30 in the immediately following taxation year;

"cash method"

«méthode de comptabilité de caisse»

"cash method" has the meaning assigned by subsection 28(1);

"foreign retirement arrangement"

«mécanisme de retraite étranger»

"foreign retirement arrangement" means a prescribed plan or arrangement;"

"registered national arts service organization"

«organisme agréé de services nationaux dans le domaine des arts»

"registered national arts service organization" at any time means a national arts service organization that has been registered by the Minister under subsection 149.1(6.4), which registration has not been revoked;"

(14) Subsection 248(3) of the said Act is repealed and the following substituted therefor:

Rules applicable in relation to the Province of Quebec

"(3) For the purposes of the application of this Act in relation to the Province of Quebec, the following rules apply:

(a) a usufruct shall be deemed to be a trust and property subject to a usufruct shall be deemed to be held in trust and not otherwise;

(b) a substitution shall be deemed to be a trust and property subject to a substitution shall be deemed to be held in trust and not otherwise;



(c) property subject to rights and obligations under an arrangement (other than a trust) that

(i) is established by or pursuant to a written contract that

(A) is governed by the laws of the Province of Quebec; and

(B) provides that, for the purposes of this Act, the arrangement shall be considered to be a trust; and

(ii) creates rights and obligations that are substantially similar to the rights and obligations under a trust (determined without reference to this subsection),

shall be deemed to be held in trust and not otherwise and such an arrangement shall be deemed to be a trust;

(d) a person who has a right (whether immediate or future and whether absolute or contingent) to receive all or any part of the income or the capital in respect of property referred to in paragraph (a), (b) or (c) shall be deemed to be beneficially interested in the trust referred to in that paragraph; and

(e) property in relation to which any person has, at any time,

(i) the right of ownership,

(ii) a right as a lessee in an emphyteutic lease, or

(iii) a right as a beneficiary in a trust

shall, notwithstanding that such property may be subject to a servitude, be deemed to be beneficially owned by the person at that time."

(15) Subsection 248(11) of the said Act is repealed and the following substituted therefor:

#### Compound interest

"(11) Interest computed at a prescribed rate under any of subsections 159(7), 160.1(1), 161(1), (2) and (11), 164(3) to (4), 181.8(1) and (2), 182(2), 185(2), 187(2) and 189(7), section 190.23, subsections 191(2), 193(3), 195(3), 202(5), and 227(8.3), (9.2) and (9.3) shall be compounded daily and, where interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for

this subsection, have ceased to be computed under that provision, interest at the prescribed rate shall be computed and compounded daily on the unpaid interest from that day to the day it is paid and shall be paid or credited as would have been the case if interest had continued to be computed under that provision after that day."

(16) Subsection 248(14) of the said Act is repealed and the following substituted therefor:

#### Related corporations

"(14) For the purpose of paragraph (g) of the definition "specified financial institution" in subsection (1), where in the case of two or more corporations it may reasonably be considered, having regard to all the circumstances, that one of the main reasons for the separate existence of those corporations in a taxation year is to limit or avoid the application of subsection 112(2.1) or (2.2) or 138(6), the two or more corporations shall be deemed to be related to each other and to each other corporation to which any such corporation is related."

(17) Section 248 of the said Act is further amended by adding thereto the following subsections:

#### When property available for use

"(19) Except as otherwise provided, property shall be considered to have become available for use for the purposes of this Act at the time at which it has, or would have if it were depreciable property, become available for use for the purposes of subsection 13(26).

#### Partition of property

(20) For the purposes of this Act, where at any time a property owned jointly by two or more persons is the subject of a partition, the following rules apply notwithstanding any retroactive or declaratory effect of such partition:

(a) each person who had an ownership interest in the property immediately before that time shall be deemed not to have disposed at that time of that proportion, not exceeding 100%, of the interest that the fair market value of that person's interest in the property immediately after that time is of the fair market value of that person's interest in the property immediately before that time,

(b) each person who has an ownership interest in the property immediately after that time shall be deemed not to have acquired at that time that proportion of the interest that the fair market

value of that person's interest in the property immediately before that time is of the fair market value of that person's interest in the property immediately after that time,

(c) each person who had an ownership interest in the property immediately before that time shall be deemed to have had until that time, and to have disposed at that time of, that proportion of the person's interest to which paragraph (a) does not apply,

(d) each person who has an ownership interest in the property immediately after that time shall be deemed not to have had before that time, and to have acquired at that time, that proportion of the person's interest to which paragraph (b) does not apply, and

(e) paragraphs (a) to (d) do not apply where the interest of the person is an interest in fungible tangible property described in that person's inventory,

and, for the purposes of this subsection, where an interest in the property is an undivided interest, the fair market value of the interest at a particular time shall be deemed to be equal to that proportion of the fair market value of the property at that particular time that the interest is of all the undivided interests in the property.

#### Matrimonial regimes

(21) Notwithstanding subsection (20), where at any time property could, as the consequence of the dissolution of a matrimonial regime between two spouses, be the subject of a partition, the following rules apply for the purposes of this Act:

(a) where that property was owned by one of the spouses immediately before it became subject to that regime and has not subsequently been disposed of before that time, it shall be deemed to be owned at that time by that spouse and not by the other spouse; and

(b) in any other case, the property shall be deemed to be owned by the spouse who has the administration of that property at that time and not by the other spouse.



### Dissolution of a matrimonial regime

(22) Notwithstanding subsections (20) and (21), where the owner, immediately after the dissolution of a matrimonial regime, of a property that was subject to that regime is not the person, or the estate of the person, who, pursuant to subsection (21), was the owner of the property immediately before the dissolution, that person shall be deemed, for the purposes of this Act, to have transferred that property to that person's spouse immediately before the dissolution or, if the dissolution occurs as a consequence of the death of one of the spouses, immediately before the time that is immediately before the death."

(18) The definition "automobile" in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(19) The definition "dividend" in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable with respect to stock dividends paid to a corporation

(a) after May 23, 1985 and before 1991, where the corporation so elects by notifying the Minister of National Revenue in writing before July 1991, and

(b) after 1990,

and, notwithstanding subsections 152(4) to (5) of the said Act, the Minister of National Revenue shall make such assessment or reassessment of a taxpayer's tax, interest and penalties payable for any taxation year as is necessary to take an election by the taxpayer pursuant to paragraph (a) into account.

(20) The definition "inventory" in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable to fiscal periods commencing after 1988.

(21) The definition "share" in subsection 248(1) of the said Act, as enacted by subsection (1), and the definition "cash method" in subsection 248(1) of the said Act, as enacted by subsection (13), are applicable after 1988.

(22) Subsection (2) is applicable after May 22, 1985.

(23) Subsection (3) is applicable after 1987, except that on or before Announcement Date, paragraph (d) of the definition "cost amount" in subsection 248(1) of the said Act, as enacted by subsection (3), shall be read as follows:

"(d) where the property was eligible capital property of the taxpayer in respect of a business, the amount that would, but for



subsection 14(3), be the cumulative eligible capital of the taxpayer in respect of the business at that time,"

(24) Subsections (4) and (5) are applicable with respect to dispositions of property occurring after Announcement Date.

(25) Subsection (6) is applicable with respect to shares issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and shares deemed by the said Act, as amended by this Act, to have been issued after that time.

(26) Subsection (7) is applicable with respect to shares issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and shares deemed by the said Act, as amended by this Act, to have been issued after that time.

(27) Subsection (8) is applicable to the 1985 and subsequent taxation years.

(28) Subsection (10) is applicable to the 1988 and subsequent taxation years.

(29) Subsection (11) is applicable to dispositions occurring after Announcement Date.

(30) Subsection (12) is applicable after June 18, 1987.

(31) The definition "balance due day" in subsection 248(1) of the said Act, as enacted by subsection (13) is applicable to the 1990 and subsequent taxation years.

(32) The definition "foreign retirement arrangement" in subsection 248(1) of the said Act, as enacted by subsection (13), is applicable to the 1990 and subsequent taxation years.

(33) The definition "registered national arts service organization" in subsection 248(1) of the said Act, as enacted by subsection (13), is applicable after Announcement Date.

(34) Subsection (14) is applicable

(a) after 1990 with respect to property the ownership of which was acquired after 1990;

(b) after 1990 with respect to property that became subject to a usufruct, a substitution, an emphyteutic lease or a trust after 1990; or

(c) to the 1989 and subsequent taxation years with respect to property that became subject to an arrangement referred to in paragraph 248(3)(c)

of the said Act, as enacted by subsection (14), in the 1989 or any subsequent taxation year.

(35) Subsection (15) is applicable to the 1990 and subsequent taxation years.

(36) Subsection (16) and subsections 248(20) to (22) of the said Act, as enacted by subsection (17), are applicable after Announcement Date.

(37) Subsection 248(19) of the said Act, as enacted by subsection (17), is applicable after 1989.

183. (1) All that portion of subsection 249(4) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Year end on change of control

"(4) Where, at any time, control of a corporation (other than a corporation that is a foreign affiliate of a taxpayer resident in Canada and that did not carry on a business in Canada at any time in its last taxation year commencing before that time) has been acquired by a person or group of person, the following rules apply for the purposes of this Act:"

(2) Subsection (1) is applicable with respect to acquisition of control occurring after Announcement Date.

184. (1) Paragraph 251(5)(b) of the said Act is repealed and the following substituted therefor:

"(b) a person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently

(i) to, or to acquire, shares of the capital stock of a corporation or to control the voting rights of such shares shall, except where the right is not exercisable at that time because the exercise thereof is contingent upon the death, bankruptcy or permanent disability of an individual, be deemed to have the same position in relation to the control of the corporation as if that person owned the shares at that time, or

(ii) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of the corporation shall, except where the right is not exercisable at that time because the exercise thereof is contingent upon the death, bankruptcy or permanent disability of an individual, be deemed to have the same

position in relation to the control of the corporation as if the shares were so redeemed, acquired or cancelled by the corporation at that time; and"

(2) Subsection (1) is applicable after Announcement Date.

185. (1) Subsection 252(3) of the said Act is repealed and the following substituted therefor:

Extended meaning of "spouse" and "former spouse"

"(3) For the purposes of paragraphs 56(1)(b) and (c), section 56.1, paragraphs 60(b), (c) and (j), section 60.1, subsections 73(1) and 146(16), subparagraph 146.3(2)(f)(iv), paragraph 146.3(14)(b), subsections 147.3(5) and (7) and 148(8.1) and (8.2) and subparagraph 210(c)(ii), "spouse" and "former spouse" include a party to a voidable or void marriage, as the case may be."

(2) Subsection (1) is applicable after 1989.

186. (1) Section 253 of the said Act is repealed and the following substituted therefor:

Extended meaning of carrying on business

"253. For the purposes of this Act, where in a taxation year a person who is a non-resident person or a trust to which Part XII applies

(a) produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed, in whole or in part, anything in Canada whether or not the person exported that thing without selling it prior to exportation,

(b) solicited orders or offered anything for sale in Canada through an agent or servant whether the contract or transaction was to be completed inside or outside Canada or partly in and partly outside Canada, or

(c) disposed of

(i) Canadian resource property, except where an amount in respect of the disposition was included under paragraph 66.2(1)(a) or 66.4(1)(a),

(ii) property (other than depreciable property) that is a timber resource property or an interest in or option in respect thereof, or



(iii) property (other than capital property) that is real property situated in Canada, including an interest therein or option in respect thereof whether or not such property is in existence,

the person shall be deemed, in respect of such activity or disposition, to have been carrying on business in Canada in the year."

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years, except that the portion of section 253 of the said Act following paragraph (b) thereof, as enacted by subsection (1), applies after February 20, 1990, other than with respect to dispositions occurring pursuant to agreements in writing entered into before February 21, 1990.

187. (1) Paragraph 256(1.1)(d) of the said Act is repealed and the following substituted therefor:

"(d) the annual rate of the dividend on the shares, expressed as a percentage of an amount equal to the fair market value of the consideration for which the shares were issued, cannot in any event exceed,

(i) where the shares were issued before 1984, the rate of interest prescribed for the purposes of subsection 161(1) at the time the shares were issued, and

(ii) where the shares were issued after 1983, the prescribed rate of interest at the time the shares were issued; and"

(2) Subsections 256(1.3) and (1.4) of the said Act are repealed and the following substituted therefor:

Parent deemed to own shares.

"(1.3) Where, at any time, shares of the capital stock of a corporation are owned by a child who is under 18 years of age, for the purposes of determining whether the corporation is associated at that time with any other corporation that is controlled, directly or indirectly in any manner whatever, by a parent of the child or by a group of persons of which the parent is a member, such shares shall be deemed to be owned at that time by the parent unless, having regard to all the circumstances, it may reasonably be considered that the child manages the business and affairs of the corporation and does so without a significant degree of influence by the parent.

Options and rights.



(1.4) For the purposes of determining whether a corporation is associated with another corporation with which it is not otherwise associated, where a person or any partnership in which the person has an interest has a right at any time under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently,

(a) to, or to acquire, shares of the capital stock of a corporation, or to control the voting rights of shares of the capital stock of a corporation, the person or partnership shall, except where the right is not exercisable at that time because the exercise thereof is contingent upon the death, bankruptcy or permanent disability of an individual, be deemed to own the shares at that time and the shares shall be deemed to be issued and outstanding at that time; or

(b) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of a corporation, the person or partnership shall, except where the right is not exercisable at that time because the exercise thereof is contingent upon the death, bankruptcy or permanent disability of an individual, be deemed at that time to have had the same position in relation to control of the corporation and ownership of shares of its capital stock as if the shares were redeemed, acquired or cancelled by the corporation."

(3) All that portion of subsection 256(7) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Control deemed not to be acquired

"(7) For the purposes of subsection 13(24), section 37, subsections 66(11), (11.4) and (11.5), 66.5(3), 66.7(10) and (11), 85(1.2), 87(2.1), 88(1.1) and (1.2) and 89(1.1), sections 111 and 127 and subsection 249(4),"

(4) All that portion of paragraph 256(7)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) a person shall be deemed not to have acquired control of a particular corporation, or of any corporation controlled by it, by reason of the redemption, acquisition or cancellation of shares of the particular corporation if that person"

(5) Subsection (1) is applicable to the 1989 and subsequent taxation years.

(6) Subsection (2) is applicable, for the purposes of determining whether two or more corporations are associated with each other,

(a) to the 1989 and subsequent taxation years where

(i) the taxation years of all the corporations commenced after 1988,

(ii) at least one of the corporations was incorporated, or was formed as a result of an amalgamation, after February 10, 1988,

(iii) at least one of the corporations acquired after February 10, 1988 from a person with whom it did not deal at arm's length all or substantially all of the assets used by it in its business, or

(iv) the 1989 taxation year of at least one of the corporations did not end on approximately the same calendar date in 1989 as the calendar date in 1987 on which a 1987 taxation year, if any, of that corporation ended; and

(b) in any other case, to the 1990 and subsequent taxation years.

(7) The addition of the reference to subsection 85(1.2) of the said Act in subsection 256(7) of the said Act, as enacted by subsection (3), is applicable with respect to dispositions occurring after 1984.

(8) Subsection (4) is applicable with respect to redemptions, acquisitions and cancellations of shares occurring after 1989.

188. (1) Paragraph (c) of the definition "securities lending arrangement" in subsection 260(1) of the said Act is repealed and the following substituted therefor:

"(c) where the qualified security is a share of the capital stock of a corporation, the borrower is obligated to pay to the lender amounts equal to and as compensation for all dividends, if any, paid on the security that would have been received by the borrower if the borrower had held the security throughout the period beginning after the particular time and ending at the time an identical security is transferred or returned to the lender, and"

(2) Subsection 260(8) of the said Act is repealed and the following substituted therefor:

Non-resident withholding tax

"(8) For the purposes of Part XIII,

(a) any amount paid or credited under a securities lending arrangement by or on behalf of the borrower to the lender as

compensation for any interest or dividend paid in respect of the security shall be deemed to be a payment made by the borrower to the lender of interest, except that where, throughout the term of the securities lending arrangement the borrower has provided to the lender under the arrangement money in an amount of, or securities described in paragraph (c) of the definition "qualified security" in subsection (1) that have a fair market value of, not less than 95% of the fair market value of the security and the borrower is entitled to enjoy, directly or indirectly, the benefits of all or substantially all income derived from and opportunity for gain with respect to the money or securities,

(i) the amount paid or credited shall, to the extent of the amount of the interest or dividend paid in respect of the security, be deemed to be a payment made by the borrower to the lender of interest or a dividend, as the case may be, payable on the security, and

(ii) the amount paid or credited shall, to the extent of the amount of the interest, if any, paid in respect of the security, be deemed for the purposes of subparagraph 212(1)(b)(vii) to have been payable by the issuer of the security, and

(b) any amount paid or credited under a securities lending arrangement by or on behalf of the borrower to the lender as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security shall be deemed to be a payment made by the borrower to the lender of interest and, for the purposes of this paragraph, where the borrower has at any time provided to the lender money, either as collateral or consideration for the security, and the borrower does not under the arrangement pay or credit a reasonable amount to the lender as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security, the amount, if any, by which

(i) interest on the money computed at the prescribed rates in effect during the term of the arrangement

exceeds

(ii) the amount, if any, by which any amount that the lender pays or credits to the borrower under the arrangement exceeds the amount of the money

shall be deemed to be an amount paid under the arrangement by the borrower to the lender as a fee for the use of the security, at



the time that an identical security is or may reasonably have been expected to be transferred or returned to the lender,

and for the purposes of Part XIII and any agreement or convention between the Government of Canada and the government of another country that has the force of law in Canada, any amount deemed by this subsection (other than subparagraph (a)(i) or (ii)) to be a payment of interest shall be deemed not to be payable on or in respect of the security."

(3) Subsections (1) and (2) are applicable with respect to transfers, loans and payments made after April 26, 1989, except that in applying paragraph 260(8)(a) of the said Act, as enacted by subsection (2), to transfers, loans and payments made before May 27, 1989, it shall be read as follows:

"(a) any payment made by or on behalf of the borrower to the lender as compensation for any interest or dividend paid in respect of the security shall be deemed to be a payment by the borrower to the lender of interest or a dividend, as the case may be, on the security; and"



## PART II

### INCOME TAX APPLICATION RULES, 1971

189. (1) Section 26 of the *Income Tax Application Rules, 1971* is amended by adding thereto the following subsection:

Idem.

"(28) Where a taxpayer has acquired a property (in this subsection referred to as the "first property") in circumstances to which any of subsections (5) and (21) to (27) applied and subsequently acquires, in exchange for or in consideration for the disposition of the first property, another property in circumstances to which any of subsections (21) to (27) would have applied if the taxpayer had owned the first property on December 31, 1971 and thereafter without interruption until the time of the subsequent acquisition, for the purposes of applying subsections (21) to (27) in respect of that subsequent acquisition the taxpayer shall be deemed to have owned the first property on December 31, 1971 and thereafter without interruption until the time of the subsequent acquisition."

(2) Subsection (1) is applicable with respect to acquisitions of property occurring after 1986.

190. (1) Paragraph 29(1)(b) of the said Rules is repealed and the following substituted therefor:

"(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsections (9), (10) and (25) of this section and sections 112 and 113 of the amended Act."

(2) Paragraph 29(2)(b) of the said Rules is repealed and the following substituted therefor:

"(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsections (9), (10) and (25) of this section and sections 112 and 113 of the amended Act,"

(3) Paragraph 29(3)(d) of the said Rules is repealed and the following substituted therefor:

"(d) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsections (1), (2), (9), (10) and (25) of this section and sections 112 and 113 of the amended Act."

(4) Paragraph 29(4)(h) of the said Rules is repealed and the following substituted therefor:

"(h) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsection 66(2) and sections 112 and 113 of the amended Act."

(5) Subparagraph 29(11)(b)(iv) of the said Rules is repealed and the following substituted therefor:

"(iv) the amount, if any, included in computing its income for the year under paragraph 59(3.2)(b) or (c) of the amended Act,"

(6) All that portion of paragraph 29(11)(b) of the said Rules following subparagraph (iv) thereof is repealed and the following substituted therefor:

"if no deduction were allowed under this section or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsections (9) and (10) of this section and subsection 66(2) of the amended Act."

(7) Subparagraph 29(12)(b)(iv) of the said Rules is repealed and the following substituted therefor:

"(iv) the amount, if any, included in computing the individual's income for the year under paragraph 59(3.2)(b) or (c) of the amended Act,"

(8) Paragraph 29(24)(d) of the said Rules is repealed and the following substituted therefor:

"(d) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under subsection (4) of this section, this subsection or section 65, 66 or 66.1 of the amended Act minus the deductions allowed for the year under subsection 66(2) and sections 112 and 113 of the amended Act,"

(9) Subparagraph 29(25)(c)(iii) of the said Rules is repealed and the following substituted therefor:

"(iii) were not otherwise deducted in computing the income of the successor for the year, were not deducted in computing the income of the successor for any preceding taxation year and were not deductible by the original owner or deducted by any predecessor owner of the particular property in computing income for any taxation year, and"

(10) Subsections (1) to (4), (6), (8) and (9) are applicable to taxation years ending after February 17, 1987.

(11) Subsections (5) and (7) are applicable to the 1985 and subsequent taxation years.

191. (1) All that portion of subsection 65(5) of the said Rules following paragraph (a) thereof is repealed and the following substituted therefor:

"(b) any shares referred to in paragraph (a) were foreign property (within the meaning assigned by subsection 206(1) of the amended Act) immediately before the amalgamation, and

(c) no consideration was received by the shareholder for the disposition of the old shares on the amalgamation other than shares of the capital stock of the new corporation (in this subsection referred to as the "new shares"),

notwithstanding any other provision of these Rules or of the amended Act, for the purposes of subsection 206(2) of the amended Act, the taxpayer shall be deemed not to have acquired the new shares after June 18, 1971."

(2) Subsection (1) is applicable with respect to periods occurring after October 31, 1985.

### PART III CANADA PENSION PLAN

R.S. c.C-8

192. (1) Section 2 of the *Canada Pension Plan* is amended by adding thereto, in alphabetical order therein, the following definition:

"balance due day"  
«date d'exigibilité du solde»

"balance due day" of a person for a year means

(a) where the person died after October 31 in the year and before May 1 in the immediately following year, the day that is 6 months after the day of death, and

(b) in any other case, April 30 in the immediately following year;"

(2) Subsection (1) is applicable to 1990 and subsequent years.

193. (1) The said Act is further amended by adding thereto, immediately after section 14 thereof, the following section:

Idem

"14.1 For the purposes of paragraph 14(a), where a member of a family in a congregation is specified in an election under subsection 143(2) of the *Income Tax Act* for a year, such part of the total of all amounts allocated to the family under that subsection for the year as may reasonably be regarded as having been derived from a business carried on by the congregation shall be deemed to be the member's income (as computed under that Act) from such a business carried on by the member."

(2) Subsection (1) is applicable to 1982 and subsequent years.

194. Paragraph 21(7)(b) of the said Act is repealed and the following substituted therefor:

"(b) twenty percent of the amount where, at the time of the failure, a penalty under this subsection had been payable by the employer in respect of a previous failure during the year."

195. (1) Subsection 23(2) of the said Act is repealed and the following substituted therefor:



Application of *Income Tax Act* provisions

"(2) Section 160, subsections 161(11) and 220(4) and (5), sections 221.1 and 223 to 224.3, subsections 227(9.1) and (10), sections 229, 236 and 244 (except subsections 244(1) and (4)) and subsections 248(7) and (11) of the *Income Tax Act* apply with such modifications as the circumstances require in relation to all contributions, interest, penalties and other amounts payable by a person under this Act, and for the purposes of this subsection, the reference in subsection 224(1.2) of that Act to "subsection 227(10.1) or a similar provision" shall be read as a reference to "section 22 of the *Canada Pension Plan*"."

(2) Subsection (1) is applicable after Announcement Date except that the addition of the reference to section 221.1 of the *Income Tax Act* in subsection 23(2) of the said Act, as enacted by subsection (1), is applicable with respect to amendments and enactments assented to or promulgated after 1989 and shall be deemed to have come into force on January 1, 1990.

196. Section 24 of the said Act is amended by adding thereto the following subsection:

Determination or appeal

"(3) Every employer required by this section to keep records and books of account shall, where that employer or an employee thereof is subject to the determination of a question by, or has made an appeal to, the Minister under section 27, retain every record, book of account, account and voucher necessary for dealing with the determination or the appeal until the determination is made or the appeal is disposed of and any further appeal in respect thereof is disposed of or the time for filing any such further appeal has expired."

197. The definition "documents" in subsection 25(1) of the said Act is repealed and the following substituted therefor:

"documents"

«documents»

"documents" includes money, securities and any of the following, whether computerized or not: books, records letters, telegrams, vouchers, invoices, accounts and statements (financial or otherwise);"

198. (1) Paragraph 30(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) in the case of a person who has died after October 31 in the year and before May 1 in the immediately following year, by the

person's legal representatives within 6 months after the day of death; and"

(2) Subsection (1) is applicable to 1990 and subsequent years.

199. (1) All that portion of subsection 33(1) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"the person shall, on or before the person's balance due day for the year, pay to the Receiver General the whole amount of the contribution."

(2) Subsection 33(2) of the said Act is repealed and the following substituted therefor:

Farmers and fishermen

"(2) Every person to whom section 155 of the *Income Tax Act* applies in respect of a year, other than a person to whom subsection (1) applies in respect of the year, shall pay to the Receiver General in respect of the year

(a) on or before December 31 in the year, two-thirds of the contribution required to be made by the person for the year in respect of the person's self-employed earnings, as estimated by the person, and

(b) on or before the person's balance due day for the year, the remainder of the contribution as estimated under section 31,

except that paragraph (a) shall not require the payment of any amount in respect of the person that would otherwise become due after the death of the person."

(3) Subsection 33(3) of the said Act is repealed and the following substituted therefor:

Other persons

"(3) Every person, other than a person to whom subsection (1) or (2) applies in respect of a year, shall pay to the Receiver General in respect of the year

(a) on or before March 15, June 15, September 15 and December 15 in the year, an amount equal to 1/4 of the contribution required to be made by the person for the year in respect of the person's self-employed earnings, as estimated by the person, and

(b) on or before the person's balance due day for the year, the remainder of the contribution as estimated under section 31,

except that paragraph (a) shall not require the payment of any amount in respect of the person that would otherwise become due after the death of the person."

(4) Subsections (1) to (3) are applicable to 1990 and subsequent years.

200. (1) Subsection 34(1) of the said Act is repealed and the following substituted therefor:

Interest on unpaid contributions

"34.(1) Where the amount paid by a person on or before the person's balance due day for a year on account of contributions required to be made by the person for the year in respect of the person's self-employed earnings is less than the amount of the contribution so required to be made, interest at a prescribed rate per annum is payable by the person on the difference between those amounts from the balance due day for the year to the day of payment."

(2) Subsection (1) is applicable to 1990 and subsequent years.

201. (1) Subsection 35(1) of the said Act is repealed and the following substituted therefor:

Failure to file a return

"35.(1) Every person who fails to file a return of that person's self-employed earnings for a year as and when required by section 30 is liable to a penalty of five per cent of such part of the amount of the contribution required to be made by that person for the year in respect thereof as remained unpaid at the expiration of the time the return was required to be filed except that, where that person is liable to a penalty under subsection 162(1) or (2) of the *Income Tax Act* in respect of the year, the Minister may reduce the penalty to which that person is liable under this section or may remit the penalty in whole or in part."

(2) Subsection (1) is applicable with respect to penalties exigible after September 12, 1988.

202. Subsection 40(3) of the said Act is repealed and the following substituted therefor:

Effective date of regulations

"(3) A regulation made under paragraph (1)(a) prescribing rules referred to in subsection 21(1) shall have effect from the date it is published in the *Canada Gazette* or from such earlier or later date as may be specified in the regulation."



PART IV  
CULTURAL PROPERTY  
EXPORT AND IMPORT ACT

R.S. c.C-51

203. (1) Paragraph 20(c) of the *Cultural Property Export and Import Act* is repealed and the following substituted therefor:

"(c) pursuant to section 32, make determinations for the purposes of subparagraph 39(1)(a)(i.1), paragraph 110.1(1)(c), the definition "total cultural gifts" in subsection 118.1(1), and subsection 118.1(10) of the *Income Tax Act*."

(2) Subsection (1) is applicable after December 11, 1988, except that, in respect of gifts made before February 21, 1990, paragraph 20(c) of the said Act, as enacted by subsection (1), shall be read without reference to the words "and subsection 118.1(10)".

204. (1) Section 22 of the said Act is repealed and the following substituted therefor:

Expert advice

"22.(1) The Review Board may call on any person who has professional, technical or other special knowledge to assist it in any matter in an advisory capacity.

Valuation experts

(2) The Minister, on the request of the Review Board, may appoint and fix the remuneration of valuation experts to assist the Review Board in making determinations pursuant to section 30 respecting fair cash offers to purchase or pursuant to section 32 respecting the fair market value of objects disposed of, or proposed to be disposed of, to institutions or public authorities."

(2) Subsection (1) is applicable after February 20, 1990.

205. (1) Subsections 32(1) and (2) of the said Act are repealed and the following substituted therefor:

Request for determination by Review Board

"32.(1) For the purposes of subparagraph 39(1)(a)(i.1), paragraph 110.1(1)(c), the definition "total cultural gifts" in subsection 118.1(1), and subsection 118.1(10) of the *Income Tax Act*, where a person disposes of or proposes to dispose of an object to an institution or a public authority

designated under subsection (2), the person, institution or public authority may request, by notice in writing given to the Review Board, a determination by the Review Board as to whether the object meets the criteria set out in paragraphs 29(3)(b) and (c) and a determination by the Review Board of the fair market value of the object.

#### Designated authorities and institutions

(2) For the purposes of subparagraph 39(1)(a)(i.1), paragraph 110.1(1)(c), the definition "total cultural gifts" in subsection 118.1(1), subsection 118.1(10) and section 207.3 of the *Income Tax Act*, the Minister may designate any institution or public authority indefinitely or for a period of time, and generally or for a specified purpose."

(2) Section 32 of the said Act is further amended by adding thereto the following subsection:

#### Redetermination

"(5) The Review Board may, at any time after determining the fair market value of an object in respect of its disposition or proposed disposition, redetermine the fair market value of the object where additional information becomes available to the Review Board which, in the opinion of the Review Board, is relevant to the determination of the fair market value of the object and such a redetermination shall be deemed, for the purposes of the *Income Tax Act*, to be the only determination of the fair market value of the object made by the Review Board in respect of that disposition or proposed disposition."

(3) Subsection (1) is applicable after December 11, 1988 except that, in respect of gifts made before February 21, 1990, subsection 32(1) of the said Act, as enacted by subsection (1), shall be read without reference to the words "and a determination by the Review Board of the fair market value of the object".

(4) Subsection (2) is applicable with respect to gifts made after February 20, 1990.

206. (1) Section 33 of the said Act is repealed and the following substituted therefor:

#### Income tax certificate

"33.(1) Where the Review Board determines or redetermines the fair market value of an object in respect of which a request was made under section 32 or determines that an object in respect of which a request is made under subsection 29(1) or 32(1) meets the criteria set out in paragraphs 29(3)(b) and (c), it shall provide the person, institution or

public authority that made the request with a certificate to that effect in such form as the Minister of National Revenue may specify.

Communication of information

(2) An official of the Department of Communications or a member of the Review Board may communicate to an official of the Department of National Revenue, solely for the purposes of administering the *Income Tax Act*, information obtained under this Act for the purposes of administering sections 32 and 33."

(2) Subsection 33(1) of the said Act, as enacted by subsection (1), is applicable after February 20, 1990.

PART V  
INCOME TAX CONVENTIONS  
INTERPRETATION ACT

R.S. c.I-4

207. (1) The *Income Tax Conventions Interpretation Act* is amended by adding thereto, immediately after section 6.1 thereof, the following section:

Partnerships

"6.2 Notwithstanding the provisions of a convention between Canada and another state or the Act giving it the force of law in Canada, it is hereby declared that the law of Canada is that, in applying the convention for the purposes of the application of the *Income Tax Act* to a person who is not a resident of that other state, a partnership of which that person is a member is not a resident of that other state."

(2) Subsection (1) is applicable to taxation years ending after June 23, 1983.



PART VI  
TAX COURT OF CANADA ACT

R.S. c.T-2

208. Subsection 12(4) of the *Tax Court of Canada Act* is repealed and the following substituted therefor:

Extensions of time

"(4) The Court has exclusive original jurisdiction to hear and determine applications for extensions of time under section 166.2 or 167 of the *Income Tax Act* or section 304 or 305 or the *Excise Tax Act*."

209. Subsection 18.29(3) of the said Act is repealed and the following substituted therefor:

Extensions of time

"(3) The provisions referred to in subsection (1) also apply, with such modifications as the circumstances require, in respect of applications for extensions of time under section 166.2 or 167 of the *Income Tax Act* or section 304 or 305 of the *Excise Tax Act*."

210. This Part shall come into force on a day or days to be fixed by order of the Governor in Council.

## PART VII UNEMPLOYMENT INSURANCE ACT

R.S. c.U-1

211. The definition "documents" in section 52 of the *Unemployment Insurance Act* is repealed and the following substituted therefor:

"documents"  
«documents»

"documents" includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements (financial or otherwise);"

212. Paragraph 53(7)(b) of the said Act is repealed and the following substituted therefor:

"(b) twenty percent of the amount where, at the time of the failure, a penalty under this subsection had been payable by the employer in respect of a previous failure during the year."

213. Section 58 of the said Act is amended by adding thereto the following subsection:

Determination or appeal

"(4) Every employer required by this section to keep records and books of account shall, where that employer or an employee thereof is subject to the determination of a question by, or has made an appeal to, the Minister under section 61, retain every record, book of account, account and voucher necessary for dealing with the determination or the appeal until the determination is made or the appeal is disposed of and any further appeal in respect thereof is disposed of or the time for filing any such further appeal has expired."

214. (1) Section 66 of the said act is repealed and the following substituted therefor:

Application of *Income Tax Act* provisions

"66. Section 160, subsection 161(11), sections 221.1 and 224 to 224.3 and subsections 227(9.1) and (10) and 248(7) and (11) of the *Income Tax Act* apply to all premiums, interest, penalties and other amounts payable by a person under this Part with such modifications as the circumstances require, and for the purposes of this section, the reference

in subsection 224(1.2) of that Act to "subsection 227(10.1) or a similar provision" shall be read as a reference to "section 56 of the *Unemployment Insurance Act*".

(2) Subsection (1) is applicable after Announcement Date except that the addition of the reference to section 221.1 of the *Income Tax Act* in section 66 of the said Act, as enacted by subsection (1), is applicable with respect to amendments and enactments assented to or promulgated after 1989 and shall be deemed to have come into force on January 1, 1990.

215. The definition "documents" in subsection 94(21) of the said Act is repealed and the following substituted therefor:

"documents"  
«documents»

"documents" includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements (financial or otherwise);"

216. (1) The definition "income" in section 122 of the said Act is repealed and the following substituted therefor:

"income"  
«revenu»

"income" of a person for a period means the amount that would, but for paragraphs 60(v.1) and (w) of the *Income Tax Act*, be the income of that person for that period determined pursuant to that Act;"

(2) Subsection (1) shall be deemed to have come into force on January 1, 1989.

217. (1) All that portion of section 123 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Liability for benefit repayment

"123. Where the income of a claimant, in this Part referred to as the "claimant's income", for a taxation year exceeds an amount that is one and one-half times the maximum yearly insurable earnings, the claimant shall, on or before the day determined in respect of the claimant for the year under paragraph 124(a) or (b), pay to the Receiver General an amount that is thirty per cent of the lesser of"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

218. (1) Paragraph 124(a) of the said Act is repealed and the following substituted therefor:

"(a) in the case of claimant who has died after October 31 in the year and before May 1 in the immediately following year, by the claimant's legal representatives within 6 months after the day of death;"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

219.(1) All that portion of section 126 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Application of *Income Tax Act* provisions

"126. For the purposes of this Part, subsections 150(2) and (3), section 152 (except subsections 152(1.1) to (1.3) and (6)), section 158, subsections 159(1) to (3), sections 160 (except paragraph 160(1)(d)) and 160.1, subsections 161(1) and (11), sections 162 to 167, Division J of Part I, section 221.1 and subsections 227(10) and 248(7) and (11) of the *Income Tax Act* are applicable, with such modifications as the circumstances require, except that, in the application of those provisions and the provisions referred to in subsection 127(2) for the purposes of this Part,"

(2) Subsection (1) is applicable after the day on which this Act is assented to, except that the addition of the reference to section 221.1 of the *Income Tax Act* in section 126 of the said Act, as amended by subsection (1), is applicable with respect to amendments and enactments assented to or promulgated after 1989 and shall be deemed to have come into force on January 1, 1990.



## PART VIII

### AN ACT TO AMEND THE INCOME TAX ACT AND A RELATED ACT

1986, c.55

220. (1) Subsection 26(5) of an *Act to amend the Income Tax Act and a related Act*, being chapter 55 of the Statutes of Canada, 1986, is repealed and the following substituted therefor:

"(5) Subsections (1) to (4) are applicable with respect to property received by a member of a partnership where

(a) the property was acquired by the partnership after December 4, 1985, otherwise than pursuant to an agreement in writing entered into before that date;

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after December 4, 1985, otherwise than

(i) pursuant to an agreement in writing entered into on or before that date, or

(ii) from a person with whom the member was not dealing at arm's length, where the interest in the partnership has not been acquired in an arm's length transaction after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date, and for the purposes of this subparagraph "arm's length" has the meaning it would have for the purposes of the said Act if it were read without reference to paragraph 251(5)(b) thereof; or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired (otherwise than by virtue of an acquisition described in paragraph 256(7)(a) of the said Act) after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date;

except that

(d) in respect of properties to which subsection (2) does not apply, subparagraph 98(3)(d)(iii) of the said Act shall, subject to paragraphs (f), (g) and (h), in its application to taxation years and fiscal periods ending after 1987, be read as follows:

"(iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceed  $\frac{3}{4}$  of the amount determined under subparagraph (i) in respect of him";

(e) in respect of properties to which subsection (4) does not apply, subparagraph 98(5)(d)(iii) of the said Act shall, subject to paragraphs (f), (g) and (h), in its application to taxation years and fiscal periods ending after 1987, be read as follows:

"(iii) in no case shall the aggregate of amounts so designated in respect of all such properties of the proprietor that are depreciable property or properties other than capital properties, exceed  $\frac{3}{4}$  of the amount determined under subparagraph (i) in respect of the proprietor";

(f) where the member is an individual, for taxation years and fiscal periods ending after 1987 and before 1990, the references in subparagraphs 98(3)(d)(iii) and 98(5)(d)(iii) of the said Act to " $\frac{3}{4}$ " shall, in respect of the member for those years and fiscal periods, be read as references to " $\frac{2}{3}$ ";

(g) where the member is a Canadian-controlled private corporation throughout a taxation year ending after 1987 and commencing before 1990, the references to " $\frac{3}{4}$ " in subparagraphs 98(3)(d)(iii) and 98(5)(d)(iii) of the said Act shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year; and

(h) where the member is at any time in a taxation year ending after 1987 and commencing before 1990 a corporation other than a Canadian-controlled private corporation, the references to "3/4" in subparagraphs 98(3)(d)(iii) and 98(5)(d)(iii) of the said Act shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year."

(2) Subsection (1) shall be deemed to have come into force on December 19, 1986.

## PART IX

### AN ACT TO AMEND THE INCOME TAX ACT, THE CANADA PENSION PLAN, THE UNEMPLOYMENT INSURANCE ACT, 1971, THE FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS AND FEDERAL POST-SECONDARY EDUCATION AND HEALTH CONTRIBUTIONS ACT, 1977 AND CERTAIN RELATED ACTS

1988, c.55

221. (1) Subsection 6(23) of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being chapter 55 of the Statutes of Canada, 1988 is repealed and the following substituted therefor:

"(23) Subsections (6) and (8) are applicable with respect to acquisitions of property occurring after May 22, 1985, other than acquisitions occurring before 1986 pursuant to an agreement in writing entered into before May 23, 1985, except that in applying clauses 13(7)(b)(ii)(B) and (d)(i)(B) of the said Act, as enacted by subsections (6) and (8),

(a) to changes in use of property by a person or partnership in taxation years and fiscal periods ending before 1988, the references therein to " $\frac{3}{4}$ " and " $\frac{4}{3}$  of" shall be read as references to " $\frac{1}{2}$ " and "2 times", respectively;

(b) to changes in use of property by an individual or a partnership in taxation years and fiscal periods ending after 1987 and before 1990, the references therein to " $\frac{3}{4}$ " and " $\frac{4}{3}$ " shall be read as references to " $\frac{2}{3}$ " and " $\frac{3}{2}$ ", respectively;

(c) to changes in use of property by a corporation in taxation years ending after 1987 and commencing before 1990 throughout which the corporation was a Canadian-controlled private corporation, the references therein to " $\frac{3}{4}$ " shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1988 is of the number of days in the year,



- (ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and
- (iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year; and

(d) to changes in use of property by a corporation in taxation years ending after 1987 and commencing before 1990 where at any time in the year the corporation was not a Canadian-controlled private corporation, the references therein to " $\frac{3}{4}$ " shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

- (i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before July, 1988 is of the number of days in the year,
- (ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and
- (iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year.

(23.1) Subsections (9) and (10) are applicable with respect to acquisitions of property occurring after May 22, 1985, other than acquisitions occurring before 1986 pursuant to an agreement in writing entered into before May 23, 1985, except that in applying clauses 13(7)(e)(i)(B) and (ii)(B) of the said Act, as enacted by subsections (9) and (10),

- (a) to acquisitions of property from a person or partnership in taxation years and fiscal periods ending before 1988, the references therein to " $\frac{3}{4}$ " and " $\frac{4}{3}$  of" shall be read as references to " $\frac{1}{2}$ " and "2 times", respectively;
- (b) to acquisitions of property from an individual or a partnership in taxation years and fiscal periods ending after 1987 and before 1990, the references therein to " $\frac{3}{4}$ " and " $\frac{4}{3}$ " shall be read as references to " $\frac{2}{3}$ " and " $\frac{3}{2}$ ", respectively;
- (c) to acquisitions of property from a corporation in taxation years ending after 1987 and commencing before 1990 throughout which the corporation was a Canadian-controlled private corporation, the references therein to " $\frac{3}{4}$ " shall be read as references to the fraction determined as the aggregate of

(i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year; and

(d) to acquisitions of property from a corporation in taxation years ending after 1987 and commencing before 1990 where at any time in the year the corporation was not a Canadian-controlled private corporation, the references therein to " $\frac{3}{4}$ " shall be read as references to the fraction determined as the aggregate of

(i) that proportion of  $\frac{1}{2}$  that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of  $\frac{2}{3}$  that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 1989 is of the number of days in the year."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

222. (1) All that portion of subsection 14(3) of the said Act, preceding the phrase "(c) the lesser of" in paragraph (a) thereof is repealed and the following substituted therefor:

"(3) Subsections (1) and (2) are applicable to fiscal periods commencing after 1988 except that for a fiscal period of a taxpayer commencing after 1988 and before 1995 in respect of a farming business that was carried on by the taxpayer before 1989, paragraph 28(1)(c) of the said Act, as enacted by subsection (1),

(a) shall, where the taxpayer so elects in the taxpayer's return of income under Part I of the said Act for the taxation year in which the fiscal period ends, be read as follows:"

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

223. (1) Subsection 16(2) of the said Act is repealed and the following substituted therefor:

"(2) Subsection (1) is applicable to fiscal periods commencing after 1988."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

224. (1) Paragraph 92(2)(c) of the said Act is repealed and the following substituted therefor:

"(c) no amount in respect of fees paid for an individual's tuition may be included in computing a deduction for the 1988 taxation year under section 118.5 of the said Act, as enacted by subsection (1), to the extent that it was deducted in computing the individual's income for the 1987 taxation year."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

225. (1) Subsection 123(4) of the said Act is repealed and the following substituted therefor:

"(4) Subsection (1) is applicable to taxation years of a credit union that commence after June 17, 1987 and end after 1987, except that, in its application to a credit union's first taxation year that commences after June 17, 1987 and ends after 1987, subsection 137(1) of the said Act shall be read as follows:

"137.(1) In computing the income for a taxation year of a credit union or a savings and credit union (in this Act referred to as a "credit union"),

(c) there shall be included any amount deducted under paragraph (a) or (b) as a reserve in computing the credit union's income for the immediately preceding taxation year; and

(d) there may be deducted the prescribed amount of the credit union's 1971 reserve adjustment."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

226. (1) Section 141 of the said Act is repealed and the following substituted therefor:

"141.(1) Section 162 of the said Act is repealed and the following substituted therefor:

Penalties

"162.(1) Every person who has failed to file a return of income for a taxation year as and when required by subsection 150(1) is liable to a penalty equal to the total of

- (a) an amount equal to 5% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, from the date on which the return was required to be filed to the date on which the return was filed.

Repeated penalties

(2) Every person

- (a) who has failed to file a return of income for a taxation year as and when required by subsection 150(1),
- (b) on whom a demand for a return for the year has been served under subsection 150(2), and
- (c) by whom, before the time of failure, a penalty was payable under subsection (1) or this subsection in respect of a return of income for any of the 3 preceding taxation years

is liable to a penalty equal to the total of

- (d) an amount equal to 10% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed, and
- (e) the product obtained when 2% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 20, from the date on which the return was required to be filed to the date on which the return was filed.



## Penalties

(3) Every person who has failed to file a return as required by subsection 150(3) is liable to a penalty of \$10 for each day of default but not exceeding \$50.

## Idem

(4) Every person who

(a) fails to complete an ownership certificate as required by section 234,

(b) fails to deliver an ownership certificate in the manner prescribed at the time prescribed and at the place prescribed by regulations made under that section, or

(c) cashes a coupon or warrant for which an ownership certificate has not been completed pursuant to that section,

is liable to a penalty of \$50.

## Failure to provide information on form

(5) Every person who fails to provide any information required on a prescribed form made pursuant to this Act or a regulation is, except where, in the case of an individual, the Minister has waived the penalty, liable to a penalty of \$100 for each such failure unless

(a) in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person; or

(b) in the case of a failure to provide a Social Insurance Number on a return of income, the person had applied for the assignment of the Number and had not received it at the time the return was filed.

## Failure to provide Social Insurance Number

(6) Every individual who has failed to provide on request the individual's Social Insurance Number to a person required under this Act or a regulation to make an information return requiring the individual's Social Insurance Number is, except where the Minister has waived the penalty, liable to a penalty of \$100 for each such failure, unless

(a) an application by the individual for the assignment of a Social Insurance Number was made no later than 15 days following the request by the person; and

(b) the Number was provided to the person within 15 days after receiving it.

#### Failure to comply with regulation

(7) Every person

(a) who fails to file an information return as and when required by this Act or by a regulation, or

(b) who fails to comply with a duty or obligation imposed by this Act or by a regulation

is liable in respect of each such failure, except where another provision of this Act (other than subsection (10)) sets out a penalty for the failure, to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

#### Failure to make partnership information return

(7.1) Where a member of a partnership fails to file an information return as a member of the partnership for a fiscal period of the partnership as and when required by this Act or a regulation, the partnership is liable to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

#### Idem

(8) Where

(a) a penalty was payable under subsection (7.1) in respect of a failure by a member of a partnership to file an information return as a member of the partnership for a fiscal period of the partnership,

(b) a demand for the return or for information required to be contained in the return has been served under section 233 on the member, and

(c) a penalty was payable under subsection (7.1) in respect of the failure by a member of a partnership to file an information return

as a member of the partnership for any of the 3 preceding fiscal periods,

the partnership is liable, in addition to the penalty under subsection (7.1), to a penalty of \$100 for each member of the partnership for each month or part of a month, not exceeding 24 months, during which the failure referred to in paragraph (a) continues.

Rules where partnership is liable to penalty

(8.1) Where a partnership is liable to a penalty under subsection (7.1) or (8), sections 152, 158 to 160.1, 161 and 164 to 167 and Division J are applicable, with such modifications as the circumstances require, with respect to the penalty as if the partnership were a corporation.

Tax shelter identification number

(9) Every person who

(a) files false or misleading information with the Minister in a application under subsection 237.1(2) for an identification number for a tax shelter, or

(b) whether as a principal or as an agent, sells, issues or accepts a contribution for the acquisition of an interest in a tax shelter before the Minister has issued an identification number therefor,

is liable to a penalty equal to the greater of

(c) \$500, and

(d) 3% of the total of all amounts each of which is the cost to each person who acquired an interest in the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be.

Failure to furnish foreign based information

(10) Every corporation

(a) that fails to file an information return required by section 233.1,

(b) on which a demand under section 233 has been served for the return, and

(c) that does not comply with the demand within 90 days after the day the demand was served on it,

is liable in respect of each such failure, in addition to the penalty under subsection (7), to a penalty of \$1,000 for each month or part of a month, not exceeding 24 months, during which the failure continues."

(2) Subsection 162(9) of the said Act, as enacted by subsection (1), shall come into force on September 1, 1989."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988, except that subsections 162(7.1) to (8.1) of the *Income Tax Act* as enacted by subsection (1) are not applicable before the day on which this Act is assented to.

227. (1) Subsection 188(26) of the said Act is repealed and the following substituted therefor:

"(26) Subsections (3), (4), (8), (10) and (11), the definitions "restricted financial institution", "specified financial institution" and "taxable RFI share" in subsection 248(1) of the said Act, as enacted by subsection (14), and subsections 248(13) and (14) of the said Act, as enacted by subsection (17), are applicable after June 18, 1987, except that in the application of the definition "specified financial institution" to paragraph 112(2.2)(f) of the said Act, as it read on May 22, 1985, paragraph (e) of the definition shall be read as follows:

"(e) a corporation whose principal business is the lending of money or the purchasing of debt obligations or a combination thereof,"

(26.1) Paragraph (a) of the definition "term preferred share" in subsection 248(1) of the Act, as enacted by subsection (7), is applicable after June 18, 1987 except that,

(a) in its application to shares issued after November 16, 1978 and before October 24, 1979, subparagraphs (a)(i) to (iv) of the definition shall be read as follows:

"(i) the owner thereof may, at any time within 10 years of the date of issue, cause the share to be redeemed, acquired or cancelled (unless the owner of the share may cause the share to be redeemed, acquired or cancelled by reason only of a right to convert or exchange the share) or cause its paid-up capital to be reduced,

(ii) the issuing corporation or any other person with whom it does not deal at arm's length is or may be



required to redeem, acquire or cancel, in whole or in part or to reduce its paid-up capital (otherwise than pursuant to a requirement of the corporation to redeem, acquire or cancel annually not more than 5% of the issued and fully paid shares of that class, or unless the owner may cause the share to be redeemed, acquired or cancelled by reason only of a right to convert or exchange the share),

(iii) the issuing corporation or any other person is or may be required to provide any form of guarantee, security or similar covenant (including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the owner thereof or any person related thereto) with respect to the share, or

(iv) the share is convertible, directly or indirectly, into debt or into a share that would, if issued, be a term preferred share"; and

(b) in its application to shares issued after October 23, 1979 and before November 13, 1981, or to shares issued pursuant to a specified agreement, subparagraphs (a)(i) to (iv) of the definition shall be read as follows:

"(i) the owner thereof may, at any time within 10 years of the date of issue, cause the share to be redeemed, acquired or cancelled (unless the owner of the share may cause the share to be redeemed, acquired or cancelled by reason only of a right to convert or exchange the share) or cause its paid-up capital to be reduced,

(ii) the issuing corporation or any other person is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital at any time within 10 years of its date of issue,

(A) otherwise than pursuant to a requirement of the issuing corporation to redeem, acquire or cancel annually not more than 5% of the issued and fully paid shares of that class and, where the requirement was agreed to after April 21, 1980, it provides that such redemption, acquisition or cancellation of the share be in proportion to the number of shares of the class or, where such shares are of a series of a class, of that series, registered in the name of each shareholder, or

(B) unless the requirement to redeem, acquire or cancel the share arises by reason only of a right to convert or exchange the share,

(ii) the issuing corporation or any other person is or may be required to provide any form of guarantee, security or similar indemnity or covenant (including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the holder thereof or any person related thereto) with respect to the share, or

(iv) the share is convertible, directly or indirectly, into debt or into a share that would, if issued be a term preferred share, or".

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

228. (1) Subsection 193(5) of the said Act is repealed and the following substituted therefor:

"(5) Subsection (2) is applicable with respect to dividends received or deemed by the said Act, as amended by this Act, to be received on shares acquired after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 that,

(a) in the case of shares described in paragraph 258(3)(a) of the said Act, as enacted by subsection (2), were issued at any time; and

(b) in the case of shares described in paragraph 258(3)(b) of the said Act, as enacted by subsection (2), are grandfathered shares (within the meaning assigned by subsection 248(1) of the said Act, as amended by this Act) or were not issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 or deemed by paragraph 112(2.2)(f) of the said Act, as enacted by this Act, to have been issued after that time."

(2) Subsection (1) shall be deemed to have come into force on September 13, 1988.

## PART X

### AN ACT TO AMEND THE INCOME TAX ACT, THE FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS AND FEDERAL POST-SECONDARY EDUCATION AND HEALTH CONTRIBUTIONS ACT, THE OLD AGE SECURITY ACT, THE PUBLIC UTILITIES INCOME TAX TRANSFER ACT, THE WAR VETERANS ALLOWANCE ACT AND A RELATED ACT

1990, c.....

229. Subsection 4(6) of *An Act to amend the Income Tax Act, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, the Old Age Security Act, the Public Utilities Income Tax Transfer Act, the War Veterans Allowance Act and a related Act*, being chapter of the Statutes of Canada, 1990, is repealed and the following substituted therefor:

"(6) Subsections (1) to (3) and (5) are applicable with respect to investment contracts last acquired after 1989, except that the repeal of subsection 12(7) of the said Act by subsection (1) is applicable to the 1979 and subsequent taxation years."

230. Subsection 5(7) of the said Act is repealed and the following substituted therefor:

"(7) Subsections (1), (2), (4) and (6) are applicable with respect to life insurance policies last acquired after 1989."

231. Subsection 11(6) of the said Act is repealed and the following substituted therefor:

"(6) Subsections (1) and (2) are applicable with respect to contracts last acquired after 1989."

232. Subsection 29(2) of the said Act is repealed and the following substituted therefor:

"(2) Subsection (1) is applicable to taxation years ending after June 1989 except that, in its application to a taxation year of a corporation commencing before July 1989, the definition "Canadian surtax payable" in subsection 125.3(4) of the said Act, as enacted by subsection (1), shall be read as follows:

"Canadian surtax payable" of a corporation for a taxation year means that proportion of,

(a) in the case of a corporation that is throughout the year not resident in Canada, the amount determined under section 123.2 in respect of the corporation for the year, and

(b) in any other case, the prescribed proportion of the amount determined under section 123.2 in respect of the corporation for the year

that the number of days in the year that are after June 1989 is of the number of days in the year;"

233. Subsection 38(5) of the said Act is repealed and the following substituted therefor:

"(5) Subsections (1) to (3) are applicable after April 27, 1989, and shall be deemed to have come into force on that day, other than with respect to a taxation year of a taxpayer for which a notice of an original assessment under Part I of the said Act in respect the taxpayer for the year, or a notification that no tax is payable by the taxpayer for the year, was mailed on or before April 27, 1986.

(5.1) For greater certainty, in the period after April 27, 1989 and before the day on which this Act is assented to, the Minister of National Revenue may assess or reassess tax, interest and penalties under the said Act as if this Act were assented to on April 27, 1989, and any assessment or reassessment so made before this Act is assented to shall be deemed to have the same effect as it would have had if this Act were assented to on April 27, 1989."

234. Paragraphs 48(3)(b) and (c) of the said Act are repealed and the following substituted therefor:

"(b) in its application to taxation years of a corporation commencing before 1990, subsection 181.7(1) of the said Act, as enacted by subsection (1), shall be read as follows:

"181.7(1) Every corporation liable to pay tax under this Part for a taxation year shall pay to the Receiver General in respect of the year,

(a) in the case of a taxation year ending before 1990, the tax payable by it under this Part for the year on or before the later of January 15, 1990 and the day on or before which the corporation is, pursuant to paragraph 157(1)(b), required to pay the remainder of its tax payable under



Part I for the year or would be so required if a remainder of that tax were payable, and

(b) in the case of a taxation year ending after 1989,

(i) either

(A) on or before the last day of each month ending in the year and after 1989, an amount equal to the amount estimated by it to be its tax payable under this Part for the year divided by the number of months ending in the year and after 1989,

(B) on or before the last day of each month ending in the year and after 1989, an amount equal to its first instalment base for the year divided by the number of months ending in the year and after 1989, or

(C) on or before the last day of the first two months ending in the year and after 1989, an amount equal to its second instalment base for the year divided by the number of months ending in the year and after 1989, and on or before the last day of each of the following months in the year, an amount equal to the amount by which

(I) its first instalment base for the year

exceeds

(II) that proportion of its second instalment base for the year that 2 is of the number of months ending in the year and after 1989,

divided by the number of those following months, and

(ii) the remainder of its tax payable under this Part for the year, on the day on or before which the corporation is, pursuant to

paragraph 157(1)(b), required to pay the remainder of its tax payable under Part I for the year or would be so required if a remainder of that tax were payable and clause 157(1)(b)(i)(A) were read as follows:

"(A) the corporation carried on an active business in Canada in the year or in its immediately preceding taxation year, and".;

(c) for the purposes of subsection 181.7(2) of the said Act, as enacted by subsection (1), the tax payable by a corporation under Part I.3 of the said Act, as enacted by subsection (1),

(i) for a taxation year ending before July 1989 shall be deemed to be the amount that would be its tax payable under that Part for that year if that Part applied in respect of that year and its capital deduction under that Part for the year were its capital deduction under that Part for its first taxation year ending after June 1989, and

(ii) for its first taxation year ending after June 1989 shall be deemed to be the product obtained when its tax payable under that Part for that year is multiplied by the ratio that the number of days in that year is of the number of days in that year ending after June 1989; and

(d) in its application to taxation years of a corporation commencing before 1990, the reference in subsection 181.8(3) of the said Act, as enacted by subsection (1), to "subparagraphs 181.7(1)(a)(i) to (iii)" shall be read as a reference to "clauses 181.7(1)(b)(i)(A) to (C)".

235. Subsection 55(3) of the said Act is repealed and the following substituted therefor:

"(3) Subsections 260(6) and (7) of the said Act, as enacted by subsection (1), are applicable with respect to payments made after June 1989 except that, in their application to such payments made before 1993 by a person who is registered or licensed under the laws of a province to trade in securities, they shall be read as follows:

"(6) In computing the income of a taxpayer under Part I from a business or property, no deduction shall be made in respect of more than  $\frac{2}{3}$  of an amount that, if paid, would be deemed by subsection (5) to have been received by another person as a taxable dividend.

(7) For the purposes of section 129, 1/3 of any amount paid by a corporation that is deemed by subsection (5) to have been received by another person as a taxable dividend shall be deemed to have been paid by the corporation as a taxable dividend."

236. This Part shall be deemed to have come into force on the day the said Act was assented to.







